



## Conditions of Sale

REF: COND: 1/07

### Interpretation

1.1 In these conditions:-

**"Buyer"** the person who accepts a quotation of the Seller for the sale of the Goods and/or Services or whose order for the Goods and/or Services is accepted by the Seller.

**"Goods"** the goods which the Seller is to supply in accordance with these conditions.

**"Conditions"** the standard terms and conditions of sale (and service) set out in this document and includes any special terms and conditions agreed in writing between the Seller and the Buyer.

**"Contract"** the contract for the sale and purchase of the goods and services.

**"Seller"** Delta-T Devices Limited.

**"Services"** any services which the Seller supplies in accordance with these conditions.

**"Writing"** a written letter, including telex, facsimile, electronic mail and comparable means of communication.

### Basis of the Sale

2.1 The Buyer shall purchase the Goods and/or Services in accordance with any quotation of the Seller in Writing which is accepted by the Buyer, or any order of the Buyer in Writing which is accepted by the Seller in Writing, subject to these Conditions.

2.2 No variation of these conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

### Orders and Specifications

3.1 The quantity, quality and description of and any specification for the Goods and/or Services shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (as accepted by the Seller).

3.2 If any alterations to the Goods are made at the request of the Buyer then the Buyer shall indemnify the Seller against any loss or damage of any kind suffered by the Seller as a result of those alterations including loss or damage resulting from any infringement of patent, copyright or other property right.

3.3 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

3.4 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller.

### Price of the Goods

4.1 Quotations for a fixed price shall bind the Seller only if given in Writing and remain open for the period stated in such quotation or in the absence of a stated period for 30 days from the date of the quotation.

4.2 Where no price has been quoted or a quoted price is no longer valid, the price shall be that shown in the Seller's current relevant price list at the time of the Buyer's order.

4.3 The Seller reserves the right to increase the price by giving notice in Writing to the Buyer at any time before delivery to take into account increased costs to the Seller of fulfilling the relevant order.

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4.5 All prices are exclusive of Value Added Tax ("VAT") or other applicable sales taxes or duties, which the Buyer shall be additionally liable to pay to the Seller. VAT will be charged at the current VAT rate in the UK (at the time of supplying the order) for Goods delivered to Buyers within the UK.

4.6 Where Goods are delivered to Buyers in another European Union country, VAT will be charged at the current VAT rate in the UK (at the time of supplying the Goods), except where the Buyer supplies its European Union VAT number, in which case no VAT will be charged.

### Terms of Payment

5.1 The Seller shall be entitled to invoice the Buyer for the price of the Goods and/or Services on or at any time after delivery.

5.2 The Buyer shall pay the price of the Goods and/or Services within a period of 30 days commencing on the date immediately following the date of delivery, unless an alternative payment period has been agreed in Writing between the Seller and the Buyer.

5.3 If the Buyer fails to make any payment promptly and in accordance with the terms of this Contract the Seller may exercise any of the following rights, either alone or in any combination:

5.3.1 terminate the Contract;

5.3.2 suspend any further deliveries to the Buyer;

5.3.3 recover any Goods already delivered;

5.3.4 retain all payments already made;

5.3.5 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 3% per annum above Barclays Bank Base Rate from time to time.

### Delivery

6.1 Delivery of the Goods and/or Services to customers in the UK shall be made by the Seller delivering the Goods and/or Services to the place of delivery in the UK agreed with the Buyer.

6.2 Any dates quoted for delivery of the Goods and/or Services are approximate only and the Seller shall not be liable for any delay in delivery of the Goods and/or Services howsoever caused.

6.3 If the Seller fails to deliver the Goods and/or Services for any reason which is within the reasonable control of the Seller, the Seller's liability shall be limited to the excess difference (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those Goods and/or Services not delivered.

6.4 If the Buyer fails to take delivery of the Goods and/or Services or fails to give the Seller adequate delivery instructions at the time of the Order then, without prejudice to any other right or remedy available to the Seller, the Seller may sell the Goods and/or Services at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for any excess or charge the Buyer for any shortfall below the price payable by the Buyer.

6.5 No claim for damage in transit, shortage of delivery or loss of the Goods will be entertained unless the Buyer shall have given to the Seller written notice of such damage, shortage or loss with reasonable particulars thereof within fourteen days of receipt of the Goods or in the case of total loss within seven days of receipt of the invoice or other notification of despatch. The Seller's liability, if any, shall be limited to replacing or repairing such Goods or refunding the price and it shall be a condition precedent to any such liability that the Purchaser shall if so requested have returned to any such liability that the Purchaser shall if so requested have returned the damaged Goods to the Seller within fourteen days of request.

### Risk and Property

7.1 This Clause 7 only applies to UK Customers.

7.2 In the case of Goods and/or Services to be delivered to Buyers in the UK risk of damage to or loss of the Goods and/or Services shall pass to the Buyer at the time when the Seller has tendered delivery of the Goods and the Buyer shall insure them against loss or damage accordingly.

7.3 Notwithstanding the above, the Goods should remain the Seller's property until the Buyer pays the price in full in accordance with the terms of the Contract.

7.4 Until such time as property in the Goods pass to the Buyer, the Buyer shall hold the Goods as a bailee, store them in such a way as they can be identified as the Seller's property and keep them separate from the Buyer's own property and that of any other person.

7.5 Until that time the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall hold on trust for and account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible and shall keep all such proceeds separate from any monies or property of the Buyer and third parties.

7.6 Until the property in the Goods passes to the Buyer (and provided the Goods are still in the possession of the Buyer) the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

### Force Majeure

8.1 If the performance of the Seller's obligations is delayed or hindered by circumstances outside the Seller's control, the following provisions will apply:

8.1.1 The Seller shall as soon as practical give the Buyer notice of the reasons for the delay or hindrance. However, failure to give such notice will not prevent the Seller relying on the remaining provisions of this clause and the Seller will incur no liability or failure to give such notice.

8.1.2 The Seller's duty to perform shall be suspended for as long as the circumstances continue and the type or performance of the Seller's obligations shall be extended by for a time equal to the duration of these circumstances.

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### Warranties

9.1 Save as set out below the Seller warrants that the Goods will be free from defects arising out of the materials used or poor workmanship for a period of twelve months from the date of delivery.

9.2 The above warranty is given by the Seller subject to the following conditions:-

9.2.1 the Seller shall be under no liability for any defect in the Goods arising from any drawing, design or specification supplied by the Buyer.

9.2.2 the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse, alteration or inexpert servicing or repair of the Goods without the Seller's approval.

9.2.3 the Seller shall be under no liability in respect of any defect arising as a result of the Buyer or any third party incorrectly installing any Goods or any products supplied to upgrade the Goods.

9.3 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

9.4 If the Buyer experiences problems with the Goods it shall notify the Seller (or the Seller's local agent) as soon as they become aware of such problem. Where Goods have been supplied by the Seller in breach of the warranty contained in Clause 9.1 the Seller shall be entitled to discharge its liability for breach of that warranty:-

9.4.1 by supplying faulty parts free of charge; or

9.4.2 by repairing the Goods free of charge at the Seller's premises in the UK

9.5 If the Seller requires that Goods be returned to them from overseas for repair under this Clause 9.4 the Seller shall not be liable for the cost of carriage or for customs clearance in respect of such Goods.

9.6 The Seller shall not be liable to supply products free of charge or repair any Goods where the products or Goods in question have been discontinued or have become obsolete.

9.7 The Seller shall not be liable to the Buyer for any consequential loss or damage whatsoever (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods and/or Services or their use or resale by the Buyer.

9.8 The Seller shall not be liable to the Buyer by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods and/or Services, if the delay or failure was due to any cause beyond the Seller's reasonable control.

9.9 The Buyer agrees to indemnify the Seller against any damage, loss, costs, claims or expenses incurred by the Seller in respect of any claim brought by the Seller by any third party for :-

9.9.1 any loss, injury or damage wholly or partly caused by the Goods or their use;

9.9.2 any loss, injury or damage in any way connected with the performance of this Contract.

### Intellectual Property

10.1 Where the Goods and/or Services comprise hardware or software systems, the Seller warrants that such hardware or software systems are, to the best of the Seller's knowledge and belief, Year 2000 compliant in the state in which they are supplied.

10.2 The Seller accepts no liability in relation to any loss, costs or expenses caused over date changes and (without limitation) which arise through use of its software systems with other software, systems or data.

10.3 Software development is a complex activity and the Seller does not warrant that any software it supplies will be free from all defects.

### Insolvency of Buyer

11.1 This clause applies if:-

11.1.1 the Buyer makes any voluntary arrangement with its creditors (being an individual or a firm) or becomes bankrupt (being a company) or becomes subject to an administration order or goes into liquidation; or

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

11.1.3 the Seller reasonably believes that any of the events listed above is about to occur and notifies the Buyer accordingly.

11.2 If this clause applies, then the Seller shall be entitled to cancel the Contract, or suspend further deliveries without any liability to the Buyer, and if the Goods have been delivered but not paid for, the price shall become immediately due and owing regardless of any previous arrangement.

### Export Terms

12.1 Where the Goods are supplied for export from the UK the provisions of this clause 12 shall apply notwithstanding any other provision of these Conditions.

12.2 In these Conditions "Incoterms" 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 provision of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

12.3 The Buyer shall be responsible for complying with any legislation or regulations governing the import of the Goods into the country of destination and for the payment of any duties thereon.

12.4 Unless otherwise specified by the Seller, the Goods shall be delivered by the Seller on a CIP basis inclusive of delivery to destination airport carriage and insurance but excluding customs clearance, local taxes and duty, on-carriage and any other costs applicable in the country of destination.

Payment of all amounts due to the Seller shall be made by means of an irrevocable letter of credit, in sterling, confirmed by a UK clearing bank on terms acceptable to the Seller (unless another payment method is specified in Writing by the Seller). All bank charges incurred both in the UK and the country of destination must be paid by the Buyer. The letter of credit shall be issued for such period as the Seller requires and shall be capable of being drawn against by presentation of such documents as are specified by the Seller

No claim for damage in transit, shortage of delivery or loss of the Goods will be entertained unless the Buyer shall have given to the Seller written notice of such damage, shortage or loss with reasonable particulars thereof within fourteen days of receipt of the Goods or in the case of total loss within seven days of receipt of the invoice or other notification of despatch. The Seller's liability, if any, shall be limited to replacing or repairing such Goods or refunding the price and it shall be a condition precedent to any such liability that the Purchaser shall if so requested have returned to any such liability that the Purchaser shall if so requested have returned the damaged Goods to the Seller within fourteen days of request.

### General

13.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its principal place of business.

13.2 Any notice required to be given under this Contract shall be deemed to be served in the following circumstances:-

13.2.1 If sent by pre-paid first class post to the party to whom it is given at its registered office or at his last known address, in which case it shall be effective on the third day after posting;

13.2.2 If sent by fax, telex or e-mail it shall be effective when the Sender receives confirmation of receipt.

13.3 No waiver by the Seller of any breach by the Buyer shall be considered as a waiver of any subsequent breach.

13.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby.

13.5 The Contract shall be governed by the laws of England and the parties agree to submit to the non-exclusive jurisdiction of the English Courts.

13.6 The Buyer agrees that in its dealings with the goods it shall comply with the Seller's Policy Statement from time to time. The current version of that Policy Statement is:-

"We aim to manufacture and sell instruments for use in work beneficial to the environment and directly related to human and animal welfare. As a matter of conscience, we reserve the right not to sell our instruments to people or institutions involved in military work, tobacco research, environmentally destructive practices and factory farming"