

Terms and Conditions of Sale, Service and Rental

The acceptance of any order is on the understanding that the purchaser identified in an order (the “Purchaser”) agrees to the following Terms and Conditions of Sale.

1. Prices

- (a) Quotations are subject to confirmation upon receipt of order and the right is reserved to amend any accidental errors and/or omissions on quotations or invoices.
- (b) Prices quoted are based on manufacturer’s prices, rates of exchange, freight and insurance charges as at the date of offer unless stated to the contrary on an order form.
- (c) The right is reserved to revise prices where conditions change between the date of the quotation and the date of delivery.
- (d) The price quoted on a quotation will not be altered provided that an order is received within thirty (30) days from the date of the quotation, unless stated to the contrary on a quotation, provided that such prices are under the direct control of Tritech International Limited (the “Company”).
- (e) Unless stated to the contrary on an order form through reference to “Incoterms” (as issued by the International Chamber of Commerce), all duties payable, including without restriction Value Added Tax (or any other equivalent sales tax) and withholding tax, shall be paid by the Purchaser.
- (f) The Company reserves the right to increase the price to reflect any increased costs suffered or incurred by the Company as a result of any changes to or introduction of any laws, bye-laws or regulations in connection with the provision of the goods.

2. Documentation & Specifications.

The Company supplies various types of documentation which includes equipment illustrations and specifications which are subject to alteration without notice. The documentation is intended to represent the goods and/or rental items available and are not warranted in appearance or design and, due to improvement and the revision of design, goods may not conform to the product documentation, and the Company will have no liability for any losses suffered by any Purchaser through alterations of goods and/or rental items, documentation, or any other representation of goods and/or rental items. All goods and rental items must be used strictly in accordance with the instructions, recommendations and specifications (if any) of the Company. The Company shall have the right to make any changes to the services which are necessary to comply with applicable law or safety requirement, or which do not materially affect the nature or quality of the services, and the Company shall notify the Purchaser in any such event.

3. Delivery.

Unless stated to the contrary on an order form through reference to “Incoterms”, delivery shall be deemed to take place when the goods and/or rental items are placed in transit to the Purchaser when the whole risk shall pass to the Purchaser. Whilst every effort is made to adhere to delivery dates, time shall not be of the essence and the Company shall have no liability for any loss occasioned by or consequential to the non-delivery on the expected date or delayed delivery. Deliveries of goods offered ex-stock are subject to the goods being unsold as at the date of receipt of the Purchaser’s order. In case of unforeseen delay or delivery, immediate notification will be given to the Purchaser notwithstanding any provisions in this condition. However, ownership or title to the goods shall not pass to the Purchaser until the whole price of the goods has been paid in full to the Company (in cash or cleared funds). Title in the rental items shall remain with the Company at all times notwithstanding that the rental items may be leased to and in the possession of the Purchaser. The Purchaser shall be responsible for ensuring the goods and/or rental items are kept in adequate storage conditions once delivered to the Purchaser or to the Purchaser’s order.

4. Completion.

In the event that goods and/or rental items are ready for delivery and delivery is delayed pursuant to Purchaser’s instructions or any other reason beyond the Company’s control, the Company will have the right to invoice the Purchaser and the Purchaser shall pay the invoice for all goods and/or rental items so delayed.

5. Insurance.

Where goods are insured by the Company at its discretion or at the Purchaser’s request, the charge for the insurance may be made on the invoice. The Company’s liability in respect of insured risks shall be limited to the amount received by the Company under insurance or the value of the goods whichever is less from which deductions may be made by the Company for expenses incurred in relation to the claim. Goods shipped against the Company’s freight agent or courier accounts will automatically be covered by the Company’s blanket transit insurance policy. However, if shipped against the Purchaser’s account, the **Purchaser** is responsible for its own insurance. The **Purchaser** shall be responsible for ensuring that the rental items are fully insured with a reputable insurer at all times during the rental period. The Purchaser shall ensure that the Company’s interest in the rental items is noted on such insurance policy. The Purchaser shall provide a certificate of insurance evidencing compliance with the provisions of this condition on the Company’s request.

6. Carriage.

Prices exclude delivery which will be invoiced in addition at standard transportation rates unless stated to the contrary on an order form. The cost of packing is payable by the Purchaser. The Company shall also be entitled to charge the Purchaser a handling charge of 10% of such delivery and packaging costs.

7. Damage and/or Loss in Transit.

The Company and the carriers must be advised in writing of all breakages within three (3) days of receipt of the goods and/or rental items. In the event that goods and/or rental items are not received by the Purchaser, the Company and the carriers must be notified in writing within fourteen (14) days from the date of advice of despatch.

8. Shortage or Error.

In the event of shortage or error in the delivery of goods and/or rental items the Company must be notified in writing within three (3) days of the receipt of consignment.

Version 4

Terms and Conditions of Sale, Service and Rental

9. Accounts.

All accounts must be settled in the currency specified in the order (unless otherwise agreed) within thirty (30) days from the date of invoice except where otherwise agreed. Prices are net and no deduction or settlement discounts are allowed except where otherwise agreed. Approved trade and/or banker's references should accompany orders from new customers.

Any order from a new customer will be subject to special terms and conditions which will be mutually agreed prior to placement of the order. The Company reserves the right to charge, and the Purchaser agrees to pay, interest on any sums outstanding after the last date of settlement of any invoice at the rate of one point five per cent per calendar month.

10. Guarantees and Warranties.

- (a) All goods sold and manufactured by the Company shall be warranted and guaranteed free from any defect in materials and workmanship for twelve (12) months from the date of delivery. The Company will repair any defect covered by the warranty upon written notification of defect and upon return of the defective goods to the Company at the expense and risk of the Purchaser and vice versa, but the warranty in respect of any parts replaced or repaired shall extend only for the unexpired portion of the warranty period referred to in this condition.
- (b) The Company shall not be liable for the goods' failure to comply with the warranty in Condition 10(a) if: the Purchaser makes further use of the goods after giving notice in accordance with Condition 10(a); the defect arises due to the Purchaser's failure to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the goods or (if there are none) good industry practice; the defect arises as a result of the Company following any drawing, design or specification supplied by the Purchaser; the Purchaser or any third party alters or repairs such goods without the written consent of the Company; or the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions.
- (c) All goods sold and manufactured by other manufacturers are sold subject to the Company using its reasonable endeavours to ensure that the manufacturer's warranties and guarantees are assigned to the Purchaser. The Company in so far as it is appointed the agents of a manufacturer to carry out repair work under such guarantees will, where the Company considers it appropriate, carry out the necessary repair work on terms agreed by the Company and the Purchaser having regard to the liability of the manufacturer under its guarantee.
- (d) Notwithstanding anything in this condition, any goods sold but not manufactured by the Company are not supplied with any warranty whether express or implied and warranty imposed by common law or statute including the warranty of merchantable quality and the implied warranty of fitness for a particular purpose contained in Section 14 of the Sale of Goods Act 1979 is expressly excluded although the Company undertakes to take every reasonable care in supplying suitable goods and giving particulars of performance.
- (e) All Company manufactured goods are delivered with an operating manual which includes a full explanation of the warranty provisions and conditions which should be read in conjunction with these terms & conditions.

11. Quality of Services.

- (a) The Company warrants that the services will be provided in accordance with the requirements of this contract using reasonable skill and care. The Company warrants that the services shall be free from defects for a period of thirty (30) days from the date of completion of the services (the "Services Warranty Period").
- (b) If the Purchaser gives notice in writing during the Services Warranty Period that the services do not comply with the warranty set out in Condition 11(a), the Company shall re-perform the services.
- (c) Except as provided for in this Condition 11, the Company shall have no liability to the Purchaser in respect of the services' failure to comply with the warranty set out in Condition 11(a).

12. Rental Items.

- (a) The Purchaser undertakes: to keep the rental items in good operating condition during the rental period; to operate the rental items in accordance with the Company's written or oral instructions using suitably qualified personnel; not to alter, adjust or attempt to repair or attach anything to rental items without the written consent of the Company; not to sell or offer for sale, assign, mortgage, pledge or sub-let or lend out the rental items or in any way part with the rental items.
- (b) The Purchaser shall ensure that the Company has if requested full and free access to the site where the rental items are located for the purpose of inspecting the rental items, observing their use and making any alterations, improvements or additions thereto.
- (c) Upon expiry of the rental period, the Purchaser shall return the rental items to the Company in good working condition in accordance with the requirements of this contract.
- (d) On the return of rental items to the Company, the Company will inspect the rental items as soon as reasonably practicable. If the rental items require any decontamination, repair or replacement (other than due to normal wear and tear) the Purchaser shall reimburse the Company for all costs and expenses in respect thereof.

13. Loss, Damage or Breakdown of Rental Items.

- (a) In the event of failure or breakdown of the rental items the Purchaser shall notify the Company immediately who will provide support to diagnose the necessary steps to correct such failure or breakdown in accordance with this Condition 13. If such repair cannot be carried out within five (5) days of the time and date of notification of such failure or breakdown, or such other time as may be agreed between the parties, subject to the provisions of this Condition 13 the Company shall as soon as reasonably practicable replace the rental items.
- (b) Rental payments in respect of any rental items which are subject to failure or breakdown which is not due to an act or omission of the Purchaser shall be suspended for each day or pro rata for part days of failure or breakdown following notification of such failure or breakdown by the Purchaser to the Company.
- (c) Rental payments shall be reinstated following the repair or replacement of the rental items. Rental payments in respect of any rental items lost, damaged or destroyed or otherwise requiring repair due to an act or omission of the Purchaser shall continue to be payable during any period when such rental items are lost, damaged, destroyed or otherwise requiring repair.
- (d) The Purchaser shall be responsible for all costs and expenses for the transportation of the Company's personnel and/or replacement rental items. Notwithstanding the foregoing, all costs and expenses incurred by the Company in effecting such repairs shall, where such failure or breakdown was due to the acts or omission of or incorrect use by the Purchaser, be borne by the Purchaser.
- (e) In the event of any rental items being lost or damaged or otherwise requiring repair due to an act or omission or incorrect use by the Purchaser to such an extent that the Company, acting reasonably, decides that it is not capable of economic repair the Purchaser shall be liable for the replacement cost of such lost or damaged rental items.

Version 4

Terms and Conditions of Sale, Service and Rental

(f) The Company shall not be liable for, and the Purchaser shall indemnify and keep indemnified the Company against any and all claims whatsoever arising from loss or damage suffered by reason of use of the rental items after the Purchaser becomes aware of any defect or after circumstances have occurred which should reasonably have indicated to the Purchaser the existence of a defect.

14. Copyright & Confidentiality.

The design, specification or illustration of any goods and/or rental items, and the copyright of the documentation and of any delivered computer software including discs, documentation, photocopies and all other software applications are the property of the Company and the Purchaser shall have no right to use such design, specification or illustration for the benefit of any third party without the prior written consent of the Company. The purchaser agrees to not supply any technical information to third parties where release of the information will benefit the third party.

15. Limitations of Liability.

Except for the death of or personal injury of the Purchaser or any other person which arises directly from the negligence of the Company, the Company's total liability arising under or in connection with this contract whether in contract, delict (including negligence), breach of statutory duty, or otherwise shall not exceed the aggregate consideration received by the Company under the relevant order. Notwithstanding any other provision of this contract, the Company shall not be liable for Consequential Loss. "Consequential Loss" shall mean: (a) consequential or indirect loss under applicable law; and (b) loss of production, deferral of production, loss of product, loss of use and loss of revenue, profit or anticipated profit, loss of contracts, loss of business opportunity, business interruption arising from or related to the performance of this contract and whether or not such losses were foreseeable at the time of entering into this contract.

16. Force Majeure.

The Company shall not be liable to the Purchaser for any loss, cost, damage, charge or expense suffered by the Purchaser directly or indirectly as a result of the Company's failure or delay in performing any of its obligations where such failure or delay is caused by any occurrence beyond the control of the Company. In the event that the Company is unable to fulfil its obligations because of such force majeure it shall give written notice to that effect to the Purchaser stating the particulars and the period of time that it will be unable to perform its obligations.

17. Amendments and Cancellations.

The Company shall make every effort to meet the Purchaser's individual requirements. However, the amendment or cancellation of any order or any part thereof will only be accepted by agreement in writing.

18. Assignment.

The Purchaser shall not assign this contract or any part of it without the prior consent of the Company in writing. The Company may at any time, on reasonable notice in writing to the Purchaser, transfer or assign all or any rights and/or obligations under this contract. The Company shall be free to subcontract or otherwise deal with the whole or any part of this contract.

19. WEEE Regulations.

The Purchaser shall be responsible, pursuant to Regulation 9 of the Waste Electrical and Electronic Equipment Regulations 2006 (the "WEEE Regulations") for the costs of collection, treatment, recovery and environmentally sound disposal of any equipment supplied under this contract which has become waste electrical and electronic equipment. For the purposes of Regulation 9, the parties acknowledge that this condition is an agreement stipulating other financing arrangements for the collection, treatment, recovery, recycling and environmentally sound disposal of WEEE.

20. Anti-Bribery, Anti-Corruption and Business Principles.

Each of the Company and the Purchaser shall each respectively comply with all applicable laws, rules, regulations decrees and/or official governmental orders of the United Kingdom and any other applicable jurisdiction in relation to anti-corruption and anti-bribery requirements and the Company Code of Conduct relating to bribery and corruption which can be requested from Tritech.

21. Termination.

If the Purchaser shall make default in payment for the goods and/or services and/or rental items, or not accept delivery of the goods and/or rental items within fourteen (14) days of receipt of written notice of readiness for delivery or commit any other breach of this contract, or if any distress or execution shall be levied upon the Purchaser's property or assets, or if the Purchaser shall make or offer to make any arrangement or composition with creditors, or become apparently insolvent or commit any act of bankruptcy, or if any petition of bankruptcy shall be presented or made against him or her, if the Purchaser is a limited company a resolution or petition to wind up such company (other than for the purposes of amalgamation or reconstruction) shall be passed or presented, or if a receiver or administrator of such company's undertaking, property, assets or any part thereof shall be appointed, the Company shall have the right to terminate this contract and upon written notice of such termination being posted to the Purchaser's last known address the contract shall be deemed to have been terminated without prejudice to any claim or right that the Company may otherwise make or exercise.

22. Cancellation Charges.

In the event of the Company agreeing in writing to the Purchaser's cancellation of an order for a non-standard product, the Purchaser shall indemnify the Company in full against all loss, costs, damages, charges and expenses incurred by the Company as a result of such cancellation.

23. Law.

This contract shall be governed by the law of Scotland and the parties submit to the jurisdiction of the Court of Session, Edinburgh, Scotland and the Sheriff Court, Aberdeen, Scotland.