

Terms and Conditions of Supply Sept 15 2008

The following applies to every Order supplied by Wireless Design Ltd ("the Company") for Goods.

1. DEFINITIONS

1.1 In these Conditions:-

"Conditions" means the Company's conditions of sale set out below together with any special condition specified on the Quotation or Order Acknowledgement. "The Contract" means the Quotation and/or the Order and the Company's Acknowledgement of Order together with the Conditions.

"The Goods" means the Goods, materials, and/or other items which are the subject of the Contract and further include any installment of the Goods or any part of the item.

"The Order" means the written order placed by the Purchaser with the Company for the provision of the Goods (whether based on a Quotation or not).

"The Quotation" means the written Quotation or tender Submitted by the Company.

"The Purchaser" means the person or organisation specified on the Order whose Order is accepted by the Company.

2. OFFER AND ACCEPTANCE

2.1 The Company shall sell and the Purchaser shall purchase the Goods in accordance with any Order which is accepted by the Company by the delivery to the Purchaser of the Company's acknowledgement of Order.

2.2 Acceptance of the Goods by or on behalf of the Purchaser shall be conclusive evidence that the Conditions are accepted by the Purchaser and that they apply to the Contract.

2.3 No variation or supplement to the Conditions shall be binding on the Company unless expressly accepted by the Company in writing.

2.4 If a Quotation is given it is an estimate only. All descriptive matters, specifications, performance ratings, capacities, prices, drawings and particulars of weights, finishes, colours and dimensions and other data submitted by the Company (whether in the Quotation or in any catalogues, advertisements or price lists) are deemed to be approximate only (except where expressly stated in writing to be exact).

2.5 Quotations shall be available for acceptance for a maximum period of 15 days from the date of such Quotation, and may be withdrawn by the Company within such time period at any time by written or oral notice.

2.6 The Order cannot be cancelled after the Purchaser has issued a PO for the supply of goods from the Company.

3. ORDERS AND SPECIFICATIONS

3.1 The quantity and description of and any specifications for the Goods shall be those set out in the Order (if accepted by the Company).

3.2 The Company reserves the right to make any changes in the specification of the Goods where the Goods are to be supplied to the Company's specification, which do not materially affect the quality or performance, without notice.

3.3 If a Contract is cancelled by the Purchaser, the Purchaser shall compensate the Company 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 Company as a result of cancellation.

3.4 Any plans drawings or technical documents or software prepared by the Company and submitted to the Purchaser prior or subsequent to the formation of the Contract shall remain the property of the Company and shall be returned to the Company on demand. The Purchaser shall not without the Company's written consent copy any such plans drawings or technical documents or software other than in connection with the installation or assembly or use of Goods.

4. PRICE

4.1 The price of each delivery of the Goods shall be the price specifically set out in the Company's Acknowledgement of the Order.

4.2 Unless otherwise agreed in writing, all prices are exclusive of GST and similar taxes, levies or duties, which the Purchaser shall be additionally liable to pay to the Company.

5. TERMS OF PAYMENT

5.1 The Company will invoice the Purchaser for the price of the Goods on delivery of the Goods, unless the Purchaser fails to take delivery of the Goods. In which event the Company will invoice the Purchaser after the Company has tendered delivery of the Goods.

5.2 Unless otherwise agreed by the Company payment shall be made within 30 days after the delivery of the Goods (as defined in Clause 8 below).

5.3 The time of payment of the price shall be of the essence of the Contract.

5.4 If the Purchaser fails to make any payment due to the Company (whether under the Contract or otherwise) on the due date then, without any prejudice to any other right or remedy available to the Company, the Company shall be entitled to:-

5.4.1 Cancel the Contract so far as any Goods remain to be delivered or suspend any further delivery of the Goods; and

5.4.2 Charge the Purchaser interest (both before and after any judgement) on the amount unpaid at the rate of 2.5 percent per annum above the Reserve Bank of New Zealand OCR rate, from the end of the 30 day payment period until payment in full is made.

5.5 Should the Purchaser require a payment period of greater than 30 days, use of money will be charged. The use of money will be charged at the Reserve Bank of NZ OCR rate + 2.5% from the time the goods are supplied till the agreed payment date.

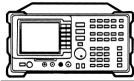
6. DELIVERY

6.1 Delivery shall mean the delivery of the Goods (to a carrier nominated by the Purchaser. In the absence of specific instructions, the Company may nominate a carrier.)

6.2 Unless otherwise agreed in writing Goods are supplied FOB Wellington Port

6.3 If the Purchaser shall fail to accept delivery of the Goods as and when preferred by the Company then the Company shall be deemed to have tendered and the Purchaser to have refused delivery at that date.

6.4 Unless otherwise agreed in writing any dates quoted for delivery of Goods are approximate only and the Company shall not be liable for any delay in despatch or delivery or any loss or damage thereby arising. Time of delivery shall not be the essence, and the Purchaser shall not be able to cancel



the Contract, refuse delivery of the Goods or withhold payment on account of any delay howsoever caused.

6.5 Unless otherwise agreed in writing, the Company reserves the right to deliver the Goods in installments and each such installment shall constitute a separate Contract. Failure by the Company to deliver any one or more of the installments shall not entitle the Purchaser to treat the Contract as a whole as repudiated or breached.

6.6 The Purchaser shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon.

6.7 The Company shall have no liability for any claim in respect of any defect in the Goods which arise after shipment or in respect of any damage during transit.

7. RISK

7.1 The risk of damage or loss of the Goods shall pass to the Purchaser at the time of delivery or, if the Purchaser wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.

7.2 Any claim by the Purchaser which is based on the quality or condition of the Goods or that failure to correspond with the Contract shall (whether or not delivery is refused by the Purchaser) be notified to the Company within 10 days from the delivery date or (where the defect was not apparent on reasonable inspection) within a reasonable time after discovery of the failure to correspond with the Order. If delivery is not refused and the Company is not so notified within the time limit, the Purchaser shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure and the Purchaser shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract. Time of notification shall be of the essence.

8. TITLE

8.1 Title of the Goods or any part of them or in any Goods of the Company (whether delivered under the Contract or otherwise) shall not pass to the Purchaser until the Purchaser shall have paid in full all monies owing under the Contract and any other Contract between the Company and the Purchaser. The Purchaser shall keep all Goods properly stored and protected and separate from the Goods of the third parties in such a way that the Goods can clearly be recognised as the property of the Company.

8.2 If the Purchaser shall be in breach of the terms of the Contract then all monies owed by the Purchaser to the Company, whether under the Contract or otherwise, shall become immediately due and payable and the Purchaser hereby grants to the Company or its agents an irrevocable licence to enter upon the Purchaser's premises to recover and/or resell such of the Goods (irrespective of whether they have become fixtures) as the Company may deem necessary to recover all sums owing to it by the Purchaser together with any reasonable costs of the Company so incurred. This right shall continue to subsist notwithstanding the termination of the Contract and without prejudice to any accrued rights of the Company under the Contract.

8.3 Any of the Goods affixed to the property of the Purchaser or any third party may be detached and removed by the Company and shall not and are not intended to become part of any such property.

8.4 Until such time as the title of the Goods passes to the Purchaser, the Purchaser shall be entitled to sell or

use the Goods in the ordinary course of its business, but shall keep the proceeds of sale of the Goods separate from any monies or property of the Purchaser.

8.5 The Company shall have a full lien over all Goods of the Purchaser which may be on the premises of the Company (whether for repair purposes, installation or otherwise) until such time as the Purchaser shall make payment in full under the Contract and the Company shall be at full right and liberty to sell those Goods if the Purchaser shall default in payment or otherwise be in breach of the Contract.

8.6 In the event of the Goods or any part of the Goods being attached to any property of the Purchaser or any third party prior to payment of all sums due to the Company from the purchase, the Purchaser shall in the event of the sale of such property hold that part of the proceeds of sale of the such property as is attributable to the Goods (or such part of the goods as are attached to or incorporated in, contained in, or affixed to the property) on trust for the Company and will account to the Company for the part of the sale proceeds of sale as are attributable to the Goods and pending such accounting the Purchaser will place the sale proceeds of such property in a separate bank account in trust for the Company.

8.7 Notwithstanding the provision of this Condition the Company may bring an action for the price due under the Contract at any time after the price has become payable under the Conditions.

9. LIMITATION OF LIABILITY

9.1 The Purchaser agrees with the Company that if the Purchaser shall suffer loss or damage as a result of any breach of any of the terms of the Contract by the Company or its servants or agents or as a result of the negligence of the Company or its servants or agents then the liability of the Company in respect of such loss or damage shall be limited to

9.1.1 A maximum sum of \$100

9.2 The limitation in the amount of the liability of the Company as referred to in sub-clause 9.1 shall subsist indefinitely notwithstanding the termination of the Contract.

9.3 The Purchaser shall be responsible for arranging any insurance cover and paying all premiums to afford protection in respect of any losses or damage which he may suffer as a result of any breach failure or negligence upon the part of the Company or the servants or agents as referred to in sub-clause 9.1.

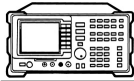
9.4 The limitation of liability contained in sub-clause 9.1 shall extend and apply not only to the Company but also to its servants and duly authorised agents.

9.5 The limitation of liability contained in sub-clause 9.1 shall not apply to any liability upon the part of the Company for any death or personal injury arising as a result of the negligence of the Company as defined by Section 1.1 of the Unfair Contract Terms Act 1977.

INDEMNITY

10.1 The Purchaser undertakes to indemnify the company against all claims relating to or arising from the Goods in respect of any loss, damage or expense sustained by any third party howsoever caused save for death or personal injury caused by the Company's negligence.

10.2 If any claim is made against the Purchaser that the Goods infringe or that their use or resale infringes the patent copyright design, trade mark or other industrial or intellectual property rights or any other person, the Company shall indemnify the Purchaser against all



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loss, damage, costs and expenses of the Purchaser, in respect of such claim, provided that:-

- 10.2.1 The Company is given full control of any proceedings or negotiations in connection with any such claim;
 - 10.2.2 Except pursuant to a final award, the Purchaser shall not pay or accept any such claim, or compromise any such proceedings, without the consent of the Company (which shall not be unreasonably withheld);
 - 10.2.3 Without prejudice to any duty of the Purchaser at common law, the Company shall be entitled to require the Purchaser to take such steps as the Company may reasonably require to mitigate or reduce any loss, costs, damages or expenses for which the Company is liable to indemnify the purchaser under this sub-clause.
- 10.3 The indemnity granted by Clause 10.2 shall not extend to Goods manufactured to a specification of the Purchaser.

10. DEFAULTS OR INSOLVENCY OF PURCHASER

11.1 This Condition applies if:-

- 11.1.1 The Purchaser defaults in any of its commitments with the Company; or
 - 11.1.2 The Purchaser makes any voluntary arrangements with the creditors or becomes subject to an administration order or becomes bankrupt; or (being a Company) goes into liquidation (other than for the purposes of amalgamation or reconstruction); or
 - 11.1.3 An encumbrancer takes possession, or a receiver is appointed, of any of the property and assets of the Purchaser; or
 - 11.1.4 The Purchaser ceases, or threatens to cease to carry on business; or
 - 11.1.5 The Company reasonably apprehends that any of the events mentions above is about to occur in relation to the Purchaser and notifies the purchaser accordingly.
- 11.2 If this Condition applies then, without prejudice to any other right or remedy available to this Company, the Company shall be entitled to cancel any partially or wholly uncompleted Contract or to withhold or suspend delivery.
- 11.3 In the event of an occurrence as outlined in sub-clause 11.1, then the Purchaser shall indemnify the Company against all loss including loss of profit, costs (including the costs of labour and materials used and overheads incurred) and all other expenses and damages connected with the Contract and its cancellation (the Company giving credit to the value of any materials sold or utilised for other purposes).
- 11.4 If the Purchaser shall become aware that any of the circumstances mentioned in sub-clause 11.1 has or is likely to occur, then the Purchaser must inform the Company of the occurrence as likely occurrences of such event immediately.

11. FORCE MAJEURE

- 12.1 The Company shall not be liable to the Purchaser or be deemed to be in breach of the Contract by reasons of any delay in performing or failure to perform, any of the Company's obligations in relation to the Contract or the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the forgoing, the following shall be regarded as causes beyond the Company's reasonable control:-
- 12.1.1 Act of God, explosion, flood, tempest, fire or accident;
 - 12.1.2 War or threat of war, sabotage, civil disturbance or requisition;

- 12.1.3 Acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 12.1.4 Import or export regulations or embargoes;
- 12.1.5 Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees and the Company or a third party).

12. 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 registered office or such other address as may at the relevant time has been notified pursuant to this provision to the party giving the notice.
- 13.2 No waiver by the Company or any breach on the Contract by the Purchaser shall be considered a waiver of any subsequent breach of the same or any other provision.
- 13.3 If any of the provisions of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions in questions shall not be affected thereby.
- 13.4 Any damage arising out of or in connection with the Contract shall be referred to the arbitration in New Zealand or a single arbitrator appointed by agreement between the parties or in default or agreement, nominated on the application by either party by the President for the time being of the Law Society.
- 13.5 The Contract shall be governed by the laws of New Zealand and for the purposes of settlement of any disputes arising out of or in conjunction with these Conditions of the Contract the parties hereby irrevocably submit themselves to the non-exclusive jurisdiction of the New Zealand Courts.
- 13.6 The Company reserves the right to subcontract the fulfillment of the Contract or any part of it.
- 13.7 The Contract is between the Company and the Purchaser and is not assignable by the Purchaser without the consent of the Company.

12 WARRANTIES

- 12.1 The Company warrants that the products are free from defects in manufacture and meets the specifications supplied at the time the contract is accepted.
- 12.2 The company warrants the products for a period of 12 months.
- 12.3 Liability of the Company for defective products is limited to replacement or repair at the discretion of the Company.
- 12.4 The Company is not liable for consequential or non consequential damages that could occur in relation to the product not meeting the accepted specification (specification given at the time of supply)
- 12.6 The warranty does not cover consumable items. Consumable will be replaced if they have manufacturing defects but will not be replaced if they have reached end of life due to normal use by the Purchaser
- 12.7 The Company will not accept any warranty claim should the product be used outside the supplied product's specification.

13 EXCHANGE RATE VARIATIONS

- 13.1 Any pricing given by the Company may be subject to variations in exchange rates. The company reserves the right to adjust the quoted price should the exchange rate vary during the period the quotation is valid.