

NewGenn Research Limited
Terms and Conditions of Sale

1. Definitions

In these conditions "Seller" means NewGenn Research Limited, "Buyer" means the person, firm or company purchasing the goods, "Goods" means the goods or services to be supplied by Seller to Buyer.

2. General

These Conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order confirmation of order or similar document. All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions. Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions. Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller. Product specifications may be altered without notice. It is the Buyer's responsibility for accuracy of orders. Seller is not liable for errors.

3. Price

- (a) Unless otherwise stated the price is the Seller's quoted price and is exclusive of VAT which shall be due at the rate on the date of the Seller's invoice.
- (b) The Seller may at any time before delivery vary the price of the undelivered balance of the Goods by notice in writing to the Buyer. In such event the Buyer may within seven days of receipt of such notice give notice in writing to cancel the order so far as the undelivered balance of the Goods is concerned.
- (c) Unless otherwise stated on acceptance, the price of the Goods shall include the Seller's costs of standard packaging, normal insurance and delivery of the Goods to any one address in the United Kingdom specified in writing by the Buyer to and agreed by the Seller prior to delivery.
- (d) Containers and/or packages are not returnable unless so stated in the Seller's quotation or acknowledgement or other documentation. Returnable containers and/or packages shall be returned empty by the Buyer to the Seller's address stated on the delivery note in good condition, carriage paid, within three months of delivery of the Goods. If not, such containers and/or packages will be chargeable at replacement value and no credit will be due on containers and/or packages for which a charge shall have been made for the Seller.

4. Delivery and Risk

Delivery of the Goods shall be made to the Buyer's address and the risk in the Goods shall pass to the Buyer on delivery. The Seller shall not be liable for any loss or damage due to failure by the Seller to deliver the Goods (or any of them) promptly or at all.

5. Returns

Seller will not accept return of Goods supplied against an order.

6. Retention of title

- (a) Title to the Goods shall remain in the Seller until full payment of all sums due from the Buyer to the Seller has been made under this or any other contract. Until the title passes the buyer shall hold all Goods as bailee and fiduciary agent for the Seller and store all Goods separately from those of third parties at no cost to the Seller so that they are easily identifiable as the Seller's property.
- (b) Without prejudice to any other rights the Seller may recover and resell any or all of the Goods supplied to the Buyer on demand at any time before title passes to the Buyer. The Buyer undertakes to give access to its premises and the Goods to enable the Seller to retake possession of the Goods.
- (c) If the Buyer resells any Goods in its possession notwithstanding that title in the Goods has not passed to it the proceeds of such resale shall belong to the Seller until the Buyer has made full payment for all the Goods. Until such time the resale proceeds shall be held by the Buyer as fiduciary for the Seller in a separate account without prejudice to the Seller's rights to trace the same if the Buyer fails to keep such proceeds separate.
- (d) If payments received from the Buyer are not stated to have referred to a particular invoice the Seller may appropriate such payments to any outstanding invoice as it sees fit.
- (e) The Agent shall not pledge or in any way charge by way of security for any indebtedness the Goods which are the property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer does so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.
- (f) The Buyer shall immediately notify the Seller of any intention on the part of the Buyer to present a petition for an administration order or if it becomes aware of any intention on the part of its creditors to present such a petition.

7. Insolvency

If the Buyer makes any voluntary arrangement with its creditors; becomes subject to an administration order; goes in to liquidation; appoints a receiver; ceases, or threatens to cease, to carry on business, or the Seller reasonably believes that any of the above events is about to occur then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the contract or suspend any further deliveries under the contract without any liability to the Buyer. Where the Goods have not been paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary. The Buyer shall cease to have any right to use, resell or otherwise dispose of the Goods.

8. Liability

- (a) All conditions and warranties (whether implied or made expressly) whether by the Seller or its servants or agents or otherwise (other than those express warranties set out in the current edition of the Seller's specification) are excluded Provided that nothing in this contract shall restrict or exclude liability for death or personal injury caused by the negligence of the Seller or affect the statutory rights of a buyer dealing as consumer.
- (b) The Buyer shall inspect the Goods on delivery and shall within 3 days of delivery notify the Seller of any alleged defect, shortage in quantity or damage. The Buyer shall afford the Seller an opportunity to inspect the Goods within a reasonable time following delivery and before any use is made of them. If the Buyer shall fail to comply with these provisions the Goods shall be conclusively presumed to be in accordance with the contract and free from any defect or damage which would be apparent on a reasonable examination of the Goods and the Buyer shall be deemed to have accepted the Goods.
- (c) If the Goods are not in accordance with the contract for any reason the Buyer's sole remedy shall be limited to the Seller making good any shortage by replacing such Goods or, if the Seller shall elect, by refunding a proportionate part of the Price.
- (d) The Buyer acknowledges that certain materials and chemicals may be hazardous in certain conditions or if handled without due care. The Buyer undertakes that only qualified and trained persons will handle any of the Goods. The Buyer undertakes that the Buyer and the Buyer's employees or agents will comply with all such warnings and instructions as may be issued by the Seller in relation to the Goods.

9. Payment

Payment for the first order for any Buyer must be made in full before the goods will be released by Seller. Time for payment shall be of the essence. Buyer shall pay the price of the Goods without demand, deduction or set-off in the invoiced currency on the 14th day from date of invoice except as otherwise agreed in writing. If payment is not made by the due date the Seller may charge the Buyer interest (before as well as after any judgement) accruing daily at a rate of 12% above bank base rate until payment is made in full. The Buyer shall be responsible for the Seller's collection and legal costs incurred in recovering payment.

10. Intellectual Property

No right or licence is granted under this contract of sale to the Buyer under any patent, trade mark, copyright, registered design or other intellectual property right except the right to use or resell the Goods.

11. Force Majeure

Seller shall not be in breach of contract if there is any total or practical failure or performance by it of any duties or obligations occasioned by Act of God, fire, act of Government, civil commotion, embargo or labour dispute and any other reason beyond its control and shall in such event give written notice thereof to Buyer.

12. Assignability

The Buyer shall not assign, sub-contract, license or otherwise dispose of any part of its rights or obligations under this contract without the prior written consent of the Seller.

13. Governing Law

These Conditions and the contract between the parties shall be construed and applied in accordance with the laws of England and the English Courts shall have sole jurisdiction in any dispute relating thereto.