

1 Interpretation and Definitions

- 1.1 In this Agreement the following words have the following meanings:
"Acknowledgement Sheet" – the acknowledgement sheet provided pursuant to clause 2.4;
"AnTech" – AnTech Limited (Company Number 02962739) whose address for service is Unit 7, Newbery Centre, Airport Business Park, Exeter, EX5 2UL;
"Lease Term" – the rental period as set out in the Quotation Sheet (as amended by the Acknowledgement Sheet);
"Lessee" – the person(s), firm or company who leases the Goods from AnTech;
"Certification" – the certification provided by AnTech to confirm that the Goods meet the Standards;
"Contract" – these terms and conditions and the Quotation Sheet (as may be amended by the Acknowledgement Sheet);
"Goods" – any goods agreed in the Quotation Sheet (as amended by the Acknowledgement Sheet) to be supplied to the Lessee by AnTech (including any part or parts of them);
"IPR" – all intellectual property rights including without limit all patents, design rights, registered designs, copyright, know-how, trademarks and services marks (whether registered or not) together with the right to register, protect and enforce the same anywhere in the world;
"Quotation Sheet" – the quotation sheet attached to these terms and conditions;
"Rental" – the amount to be paid by the Lessee pursuant to this Contract;
"Standards" – the industry standards (if any) identified on the Quotation Sheet (as may be amended by the Acknowledgement Sheet) (including without limit ATEX standards).
- 1.2 In these conditions references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.
- 1.3 In these conditions references to the masculine includes the feminine and the neuter and references to the singular include the plural and vice versa as the context admit or require.

2 Application of conditions

- 2.1 Unless agreed by AnTech in writing, all other terms and conditions (including any terms or conditions which the Lessee purports to apply under any lease, order, confirmation of order or other document) are hereby excluded.
- 2.2 This Contract shall not be varied unless agreed by AnTech in writing.
- 2.3 Each order for Goods by the Lessee from AnTech shall be deemed to be an offer by the Lessee to lease the Goods subject to these conditions.
- 2.4 No order placed by the Lessee shall be deemed to be accepted by AnTech until a written acknowledgement of order is issued by AnTech or (if earlier) AnTech delivers the Goods to the Lessee.
- 2.5 The Lessee must ensure that the terms of its order and any applicable specification are complete and accurate.

3 Description

- 3.1 The description of the Goods shall be materially as set out in the Quotation Sheet (as amended by the Acknowledgement Sheet).
- 3.2 All drawings, descriptive matter, specifications and advertising issued by AnTech and any descriptions or illustrations contained in AnTech's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods. They will not form part of the Contract.

4 Delivery

- 4.1 AnTech will (if it has agreed to deliver) use its reasonable endeavours to deliver the Goods to the Lessee at the address and by the date set out on the Quotation Sheet (as amended by the Acknowledgement Sheet). Time shall not, however, be of the essence unless agreed in writing.
- 4.2 Subject to clause 4.1, if for any reason AnTech is unable to deliver the Goods on time because the Lessee has not provided appropriate instructions, documents, licences or authorisations or the Lessee refuses (for whatever reason) to accept the delivery of such Goods, then:
- (a) risk in the Goods will pass to the Lessee (including for loss or damage caused by AnTech's negligence);
 - (b) the Goods will be deemed to have been delivered; and
 - (c) AnTech may store the Goods until delivery whereupon the Lessee will be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 4.3 The Lessee will provide at its expense at the delivery site adequate and appropriate equipment and manual labour for unloading the Goods.

5 Non-Delivery

- 5.1 The quantity of any consignment of Goods as recorded by AnTech upon despatch from AnTech's place of business shall be conclusive evidence of the quantity received by the Lessee on delivery unless the Lessee can provide conclusive evidence proving the contrary.
- 5.2 Any liability of AnTech 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.

6 Risk/Title

- 6.1 Unless otherwise agreed between the parties in writing, the Goods are at the risk of the Lessee from the time of delivery (or if the Lessee is to collect the Goods from the time of collection).
- 6.2 Notwithstanding that the Goods may have been affixed to any building or machinery AnTech shall at all times retain the ownership and title of the Goods and the Lessee shall have no interest in the Goods save as is provided by this Contract.

7 Insurance

The Lessee will:

- 7.1 insure the Goods and keep the Goods insured throughout the Lease Term (in the joint names of AnTech and the Lessee) for their full market value against all risks on a comprehensive policy without restriction or excess;
- 7.2 to insure AnTech and the Lessee as joint assureds against all liability to third persons for death personal injury and damage to or loss of property arising directly or indirectly out of the use possession or operation of the Goods;
- 7.3 pay punctually all premiums due for such insurance and to produce to AnTech on request a copy of the policy or policies together with evidence of payment of the premiums and the Lessee agrees that AnTech may effect the insurance if the Lessee has failed to do so (though it is not under any obligation so to do) and to reimburse AnTech on demand the cost of so doing.

8 Indemnity

- 8.1 The Lessee will indemnify AnTech against all loss actions claims demands proceedings (whether criminal or civil) costs legal expenses insurance premiums and calls liabilities judgments damages or other sanctions whenever arising directly or indirectly from the Lessee's failure or alleged failure to carry out its duties under this Contract or by reason of any loss injury or damage suffered by any person (including without limitation AnTech) from the presence of the Goods or the delivery possession hiring transportation condition use operation removal or return of them or their sale or disposal by AnTech or any defect in the Goods or the design manufacture testing maintenance or overhaul of them or AnTech exercising any right in respect of the Goods or their ownership or hiring.

9 Determination

- 9.1 This Contract shall terminate immediately if:
- (a) the Lessee fails to pay any of the rentals or any sums agreed to be paid by the Lessee to AnTech under this Contract punctually on the date when due; or
 - (b) the Lessee shall be in breach of any term of this Contract; or
 - (c) the Lessee does or allows to be done any act or thing that may prejudice or endanger AnTech's property or rights in the Goods; or
 - (d) the Lessee has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision 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 Lessee or for the granting of an administration order in respect of the Lessee, or any proceedings are commenced relating to the insolvency or possible insolvency of the Lessee; or
 - (e) the Lessee suffers or allows any execution, whether legal or equitable, to be levied on his property or obtained against him, or fails to observe/performs any of his obligations under the Contract or any other contract between AnTech and the Lessee, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Lessee ceases to trade; or
 - (f) the Lessee encumbers or in any way charges any of the Goods.
- 9.2 The Lessee grants AnTech, 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 Lessee's right to possession has terminated, to recover them.

10 Lease Term and Rental

- 10.1 The Rental shall be exclusive of any value added tax or delivery, insurance, carriage or licence charges. Unless otherwise stated all rentals are in pound sterling. All currency risks will be borne by the Lessee.
- 10.2 Payment of the Rental is due in accordance with this Contract.
- 10.3 Time for payment shall be of the essence.
- 10.4 No payment shall be deemed to have been received until AnTech has received cleared funds.
- 10.5 All payments payable to AnTech under the Contract shall become due immediately upon termination of this Contract despite any other provision.
- 10.6 The Lessee shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
- 10.7 AnTech reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 10.8 AnTech reserves the right to amend the Rental if any specification agreed as part of the Quotation Sheet (as amended by the Acknowledgement Sheet) is changed.

11 Return of Goods

- 11.1 The Lessee will deliver up the Goods serviced and maintained and in good repair and working order at the expiration of the Lease Term or upon earlier determination of this Contract or the hiring under it at such address as AnTech shall notify to the Lessee or if agreed by AnTech to allow AnTech its agents or representatives access to any premises where the Goods may be for the purpose of removing them.

12 IPR

- 12.1 The Lessee acknowledges and accepts that the Goods incorporate certain IPR (including without limit IPR in the Software) which belongs (and will remain so) the property of AnTech. Under no circumstances shall the Lessee use such IPR independently of the Goods or in a manner which is inconsistent with its use of the Goods for the purpose for which they have been supplied by AnTech.
- 12.2 Subject to clause 12.1, AnTech hereby grant the Lessee a non-exclusive licence to use such IPR provided that such licence shall terminate immediately in the event that the Contract is terminated (for whatever reason).
- 12.3 In the event that the Goods incorporate any third party IPR then AnTech reserve the right (and the Lessee will accept) to pass on any obligations and/or increases in licence fees associated with such IPR to the Lessee.

13 Quality

- 13.1 AnTech warrants that (subject to the other provisions of these conditions) upon delivery, the Goods will materially comply with the Standards.
- 13.2 AnTech shall not be liable for a breach of any of the warranty in clause 13.1 unless:
- (a) the Lessee gives written notice of the defect to AnTech, and (if the defect is as a result of damage in transit) to the carrier, within 5 days of the date of delivery; and
 - (b) AnTech is given a reasonable opportunity after receiving the notice of examining such Goods and the Lessee (if asked to do so by AnTech) returns such Goods to AnTech's place of business at the Lessee's cost for the examination to take place there.
- 13.3 AnTech shall not be liable for a breach of the warranty in clause 13.1 if:
- (a) the Lessee makes any further use of such Goods after giving such notice; or
 - (b) the defect arises because the Lessee failed to follow AnTech's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
 - (c) the Lessee alters or repairs such Goods without the written consent of AnTech.
- 13.4 Subject to clause 13.2 and 13.3, if any of the Goods do not conform with any of the warranties in clause 13.1 AnTech shall at its option repair or replace such Goods (or the defective part) or refund the Rental of such Goods at the pro rata Contract rate.
- 13.5 If AnTech complies with condition 13.4 it shall have no further liability for a breach of the warranty in clause 13.1 in respect of such Goods.
- 13.6 For the avoidance of doubt and without further liability on AnTech, AnTech shall be entitled at anytime to refuse or withdraw Certification if the Lessee fails to comply with the Contract.

14 Limitation of Liability

- 14.1 Subject to clause 14.3, the following provisions set out the entire financial liability of AnTech (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Lessee in respect of:

- (a) any breach of this Contract; and
 - (b) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 14.2 To the fullest extent permitted by law, all warranties, conditions and other terms implied by statute or common law are excluded from the Contract.
- 14.3 Nothing in these conditions excludes or limits the liability of AnTech for death or personal injury caused by AnTech's negligence or fraudulent misrepresentation.
- 14.4 Subject to clause 14.2 and 14.3:
- (a) AnTech's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the amount of Rental paid by the Lessee as at the date of the incident giving rise to the claim; and
 - (b) AnTech shall not be liable to the Lessee 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 (howsoever caused) which arise out of or in connection with the Contract.

15 Assignment

- 15.1 The Lessee shall not be entitled to assign the Contract or any part of it without the prior written consent of AnTech.
- 15.2 AnTech may assign the Contract or any part of it to any person, firm or company.

16 Force Majeure

- (a) AnTech reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Lessee (without liability to the Lessee) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of AnTech including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials. Provided that, if the event in question continues for a continuous period in excess of 60 days, the Lessee shall be entitled to give notice in writing to AnTech to terminate the Contract PROVIDED that the Lessee shall pay all reasonable costs incurred by AnTech at the date of termination in respect of the Goods (including without limit all manufacturing, design and part costs).

17 General

- 17.1 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of the same be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 17.2 Failure or delay by AnTech in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.
- 17.3 The parties to this Contract do not intend that any term of this Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 17.4 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the non-exclusive jurisdiction of the English courts.

18 Communications

- 18.1 All communications between the parties about this Contract must be in writing and delivered by hand or sent by pre-paid first class post or sent by facsimile transmission or sent by e-mail:
- (a) (in case of communications to AnTech) to its registered office or such changed address as shall be notified to the Lessee by AnTech; or
 - (b) (in the case of the communications to the Lessee) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Lessee set out in any document which forms part of this Contract or such other address as shall be notified to AnTech by the Lessee.
- 18.2 Communications shall be deemed to have been received:
- (a) if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);
 - (b) if delivered by hand, on the day of delivery;
 - (c) if sent by facsimile or e-mail transmission on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.