

**TERMS AND CONDITIONS OF BUSINESS.**

**REVISED January 2010**

**1. DEFINITIONS**

In these conditions:

- 1.1 the "Buyer" shall mean the corporate entity firm or person seeking to purchase the goods from the Company;
- 1.2 the "Company" shall mean Synergetix Limited, trading at 120 High Street, New Whittington, Chesterfield, S43 2AL, Registered at Companies House No: 07087214
- 1.3 the "Contract" shall be any contract for goods or services made between the Company and the Buyer;
- 1.4 the "Goods" shall mean the products articles or things to be sold by the Company;
- 1.5 the "Services" shall mean any services provided by the Company to the Buyer (whether or not the Buyer shall purchase goods)

**2. THE CONTRACT**

- 2.1 These conditions shall be incorporated into each and every contract made between the Company and the Buyer:
  - 2.1.1 shall apply to the exclusion of any terms and conditions by or on behalf of the Buyer;
  - 2.1.2 shall not create any agency or partnership between the Company and the Buyer;
- 2.2 No variation or waiver of or addition to these conditions, whether written or oral, shall have effect unless and until authorised in writing by a Director of the Company.
- 2.3 Quotations, whether written or oral submitted by the Company shall be deemed to be an invitation to treat and not an offer.
- 2.4 Any order given in respect of a quotation must state the date, the reference number of the quotation, the address for, and means of delivery material specifications, tolerances and any special requirements or instructions. The Buyer must make all instructions relating to the contract in writing to the Company.
- 2.5 Statements made in product information, Company promotional material, websites or verbal information regarding the goods will only be binding on the Company if expressly referred to in an offer or agreement.
- 2.6 The Company will confirm the Contract by the issue of a 'Sales Order Acknowledgement' to the Buyer. The agreement will only come into effect upon this document being issued.

**3. TIME LIMITS**

- 3.1 Any time or date quoted by the Company for delivery or collection of all or any of the Goods or performance of any services in an estimate only, and the Company shall not be liable for any failure to meet any such estimate nor for any loss, whether financial or otherwise resulting directly or indirectly there from. Time is not and shall not be the essence in relation to this condition.

**4. COLLECTIONS AND DELIVERY**

- 4.1 The Buyer shall collect the Goods from the Company's premises. Where it is agreed that the Company shall deliver or procure delivery of the Goods, when ready, it shall do so at the risk and cost of the Buyer to such address in the United Kingdom as the Buyer may specify or, if no such address is specified to any address of the Buyer to which correspondence and /or goods may previously have been sent under the Contract. The manner of delivery shall be such, as the Company in its sole discretion shall deem appropriate.
- 4.2 If the Company is unable to effect delivery on arrival at the Buyers premises for any reason whatsoever, an additional cost for any return or subsequent visit may be made.
- 4.3 A rate card showing delivery charges is available upon request; the Company may update this without notifying the Buyer.

**5. LOSS OR DAMAGE IN TRANSIT**

- 5.1 The Buyer is under a duty wherever possible to examine the Goods on delivery or upon collection (as the case may be)
- 5.2 Where the Goods cannot be examined the carrier's note or such note shall be marked by the Buyer at the time of delivery "not examined"
- 5.3 The Company shall be under no liability whatsoever for any defects or shortages that would be apparent on careful examination and, in any event, the company accepts no liability for any such defects or shortages as aforesaid unless notified in writing within 3 days of receipt.
- 5.4 In all cases where defects or shortages are complained of, the Company shall be under no liability to the Buyer in respect thereof unless a reasonable opportunity to inspect the goods by the Company giving at least 48 hours notice in writing before any use is made thereof or any alteration or modification is made thereto by the buyer.
- 5.5 The Company shall make good any defects or shortages in accordance with the terms of this condition but otherwise shall be under no liability whatsoever, whensoever or howsoever arising, whether by way of negligence or otherwise, for such defects or shortages.

**6. CANCELLATION BY THE BUYER**

- 6.1 No cancellation of the whole or any part of any order, whether it is an order by instalment or otherwise, by the Buyer is permitted except when agreed in writing in advance by a Director of the Company.
- 6.2 Goods, once delivered, may not be returned for any other reason than if they are faulty. Where goods are accepted as faulty by the Company, written acceptance by the Company will be given as specified in condition 6.1 and provided that the following conditions are satisfied:
  - 6.2.1 Goods will only be accepted if they are in brand new and unused condition;
  - 6.2.2 Goods will only be accepted if notified in writing within three days of the date of collection or delivery;

**7. PRICE**

- 7.1 Any price quoted by the Company is based upon current price ruling as the date appearing on the quotation, but the actual price to be charged to the Buyer under the contract shall be based upon such ruling price (less any discount allowed by the Company) current as at the date of invoice and shall include the cost to the Company of any carriage, insurance and/or affected by it in connection with the buyers order. In accordance with the terms of this condition, the Company shall be entitled at any time up to the date of the invoice to vary the price quoted to the Buyer.
- 7.2 Unless otherwise expressly stated in writing, all prices are exclusive of and therefore subject to, the addition of VAT.
- 7.3 Prices quoted are based on the quantities shown, a variation in quantity on the contract may result in a price variation.
- 7.4 Quotations involving the supply of materials are valid for seven days; free issue material quotations are valid for a period of thirty days, both from the date of quotation.
- 7.5 Prices quoted are based on being supplied a pre-generated CAD drawing either on disc or by E-mail. Failure to supply the required format may result in a programming charge.

## 8. PAYMENT

8.1 The Buyer shall make payment in full within thirty days from the end of the month in which the invoice is dated. Interest at the yearly rate of 1% over the base rate for the time being and from time to time of HSBC Bank will be charged from day to day on all monies outstanding under the contract from thirty days after the end of the month in which the invoice is dated until the actual date of payment (both before and after any judgment).

8.2 Any delay or default by the Buyer making the payment in accordance with conditions 8.1 shall render all sums owing to the company on any account whatsoever including the costs of recovery of such sums, due and payable forthwith without requirement for any notice to be given to the Buyer, and interest will be charged in accordance with condition 8.1 with immediate effect until the date of actual payment.

8.3 The Buyer will not be entitled to withhold payment of any amount payable to the Company by reason of any dispute or claim by the Buyer (whether or not the goods or services are to be provided by installments and in such case each installment is deemed to constitute a separate and distinct Contract) In the case of any short delivery or delivery of damaged goods to the Buyer, the Buyer shall remain liable to pay the full invoiced price of all other Goods delivered.

8.4 Until a credit account is established all orders are processed on a pro-forma basis, no contracts will be actioned until the payment for the goods has been made in full and cleared by the Company's bank.

8.4.1 a credit account application can take up to 14 working days to process.

## 9. DISPUTES AND SET-OFF

9.1 Any liability of the Company under the Contract shall be subject to and conditional upon the due performance and observance by the Buyer of all its obligations under these conditions, and subject to these conditions, the Buyer shall not be entitled to withhold or delay payment or exercise any right to set off whatsoever and howsoever arising or arisen which might otherwise be available to it.

## 10. RISK

10.1 Risk in the Goods shall pass to the Buyer when the Goods are dispatched by the Company or collected by the Buyer or its agent.

10.2 Materials issued by the Buyer to the Company, for processing via the terms of the contract are done so at the buyers risk entirely. No liability will be accepted by the Company for loss/damage or mis processing of any materials supplied.

## 11. TITLE

11.1 Notwithstanding the passing of risk under condition 10, unless and until payment has been made to the Company of all sums due to it under any contract and/or under any other Contract between the Buyer and the Company on any account whatsoever, property in and beneficial title to the Goods shall remain in the Company.

11.2 The Buyer shall store the Goods separately from all other Goods and products and in such a way that they can be readily identified as being the property of the Company.

11.3 Subject to conditions 11.4 and 11.5 the Buyer shall be free to sell the Goods in the ordinary course of its business on the basis that the proceeds of the sale shall be transferable to the Company and pending such transfer shall be held in trust for the Company, and the Buyer shall account therefore to the Company on demand for monies outstanding under clauses 7 and 8.

11.4 The Company may at any time revoke the Buyer's power of sale referred to in condition 11.3 by written notice to the Buyer if the Buyer shall for seven days or more be in default in the payment of any sum whatsoever due to the Company (whether in respect of the Goods or any other Goods supplied by the Company or services rendered, whether or not under the Contract by the Company or for any other reason whatsoever), or immediately if any cheque or other negotiable instrument drawn or accepted by the Buyer in favour of the Company shall on presentation for the payment be dishonoured or in seven days if the Company in good faith shall have doubts as to the solvency of the Buyer.

11.5 The Buyer's power of sale referred to in condition 11.3 shall automatically cease if insolvency occurs.

11.6 Upon determination of the Buyer's power of sale under conditions 11.4 and 11.5, the Buyer shall place the Goods at the disposal of the Company and the Company shall be entitled to enter upon any premises of the Buyer for the purpose of removing the Goods from the premises (including severance from realty where necessary)

11.7 The Company shall at any time be entitled to appropriate any payment made by the Buyer in respect of any Good's in settlement of such invoices or accounts in respect of such Good's as the Company may in its absolute discretion think fit notwithstanding any purported appropriation to the contrary by the Buyer.

## 12. TEST CERTIFICATES

12.1 Unless otherwise specified in writing in conjunction with the Contract, whereupon 'Test Certificates' are requested the Company will only supply 'Chemical Composition and Mechanical Properties.' A cost for Test Certification may apply to the Buyer. The Company will advise this in writing before acceptance of the Contract.

## 13. TERMINATIONS AND SUSPENSION

13.1 Without prejudice to any rights and remedies available to it, whether under the Contract or otherwise, the Company shall be entitled, in its absolute discretion and upon giving to the Buyer written notice of its intention to do so, either terminate wholly or in part the Contract and/or any other Contract with the Buyer or to withhold, vary or suspend performance of all or any of its obligations under the Contract.

## 14. WARRANTIES AND LIABILITY

14.3 The liability of the Company arising from all any claims relating to any single Contract shall be limited to a maximum sum of £200 in total or such amount (less the costs of the recovery incurred by the Company) as the Company receives from the manufacturer of the Goods giving rise to the claim from the Buyer.

14.4 The Company shall not be liable for any claim relating to any breach of warranty, express or implied, brought after the expiry of the period of 12 months from the date on which the Contract was made (or, in the case of Goods, after the expiry of such longer period (if any) as may be provided for by or on behalf of the manufacturer of those Goods)

14.5 The Company in no circumstances is liable to the Buyer for any economic loss, loss of profit, loss of Business or like loss.

14.6 The terms of this condition replace all conditions, warranties, representations, statements, liabilities and other terms whatsoever implied by common law, statute or otherwise, all of which shall accordingly be excluded to the extent allowed by law, and the Company shall in relation to the Goods and Services have no obligation to the Buyer, either arising by statute or in tort or in Contract and whether arising out of any negligence of the Company or any of its employees or these conditions or in any other document expressly incorporated in writing into the Contract. Accordingly, it shall be for the Buyer to insure against any liability arising from the performance of the Service and from its use of the Goods.

14.7 The Company shall use its reasonable endeavors to transfer to the Buyer the benefit of any guarantee in respect of the Goods available from the manufacturer provided that the company may in its discretion, elect to do so only at the cost of the Buyer.

14.8 Notwithstanding anything to the contrary herein contained the Company's liability to the Buyer for:

14.8.1 Death or personal injury resulting from the negligence of the Company, its employees or agents:

14.8.2 Damage suffered by the Buyer as a result of a breach by the Company of the condition as to title or the warranty as to quiet possession implied by section 12 of the sale of Goods Act 1979 or section 2 of the supply of Goods and Services Act 1982.

14.8.3 Damage for which the Company is liable to the Buyer under part 1 of the Consumer Protection Act 1987, shall not be limited save that nothing in this clause 13 shall confer a right or remedy upon the Buyer to which the Buyer would not otherwise be entitled.

14.9 The provisions of this clause 14 shall survive any termination of the Contract.

14.10 The exclusions from and limitations of liability set out in this clause 14 shall be considered severably. The validity or unenforceability of any one clause, sub clause, paragraph or sub-paragraph of this clause 14 shall not affect the validity or enforceability of any other part of this clause 14.

## 15. GUARANTEES

15.1 The Buyer shall accept Goods supplied by the Company at its own risk as to the quality, condition or fitness for any purpose. The Company will adhere to British Standards where applicable. The Buyer will be entitled to the benefit of any guarantee, offered by any third party to the Company. Without accepting any legal liability the Company will use its best endeavors to protect the interests of the Buyer. Any guarantees given, either in writing or verbal, by any representative/employee of the Company will be deemed void, unless specifics are agreed in writing by a Company Director.

## 16. INDEMNITY

16.1 If any process is to be applied to the Goods or the Services by the Company in accordance with a specialist or direction (as the case may be) submitted by the Buyer, the Buyer shall indemnify and hold harmless the Company from and against all loss, damages, costs and expenses awarded against or incurred by the Company in connection with or paid by the Company in settlement of any claim for infringement or alleged infringement of any intellectual property rights of any other person which results from the Company's use of the Buyer's specification or form the Company complying with the Buyer's discretion as the case may be.

16.2 Where the Buyer uses the Goods or the Services:

16.2.1 in the manufacture, supply or distribution of any other Goods:

16.2.2 in the provision of a Service:

then the Buyer shall indemnify and hold harmless the Company from and against all loss, damages, costs and expenses awarded against or incurred by the Company in respect of such use by the Buyer arising out of the manufacture, supply or distribution of those other Goods or the provision service.

16.3 the Buyer shall indemnify and hold harmless the Company from and against all loss, damages, costs expenses awarded against or incurred by the Company in respect of:

16.3.1 any liability which the Company may incur as a result of a claim against the Company by a third party under part 1 of the Consumer Protection Act 1987

16.3.2 any warranty howsoever given by the Buyer to a third party

16.3.3 any loss caused by the Goods during transit.

## 17. FORCE MAJEURE

17.1 The Company shall have no liability whatsoever for any failure to perform, or for any delay in the performance of any of its obligations arising wholly or in part by reason of any factor beyond its direct control.

## 18. NOTICES

18.1 Any notice required to be given in writing under the Contract shall be given either by E-mail or facsimile transmission or by first class post addressed to the registered office of the party for which it is intended.

## 19. GOVERNING LAW

19.1 This Contract shall be governed by the law of the country in which the Contract is made.

