

D-Gen Ltd Terms & Conditions of Sale

I. GENERAL

1.1 In these Conditions:

Buyer means the person, firm, company or other organisation who or which has ordered Products (which term shall include services) from the Company;

Company means D-Gen Ltd (a company incorporated in England No: 3670478).

Contract means any contract for the sale and purchase of Products between the Company and the Buyer ;

Goods means all items manufactured or supplied by the Company;

Products means any Goods or Services agreed in the Contract to be supplied by the Company.

Services means any services agreed in the Contract to be supplied by the Company.

Specification the specification of the Goods as set out in the product insert sheet accompanying the Products or other published literature of the Company from time to time;

1.2 These Conditions shall be incorporated into each Contract and shall govern each Contract to the exclusion of all other terms (including any conditions which the Buyer purports to apply). These Conditions may not be varied or waived except with the written agreement of the Company. The failure of the Company to enforce its rights under the Contract at any time for any period of time shall not be construed as a waiver of any such rights.

1.3 Any order or acceptance of quotation for the Products from the Buyer shall be deemed to be an offer to purchase the Products subject to these Conditions.

1.4 No order shall be deemed to have been accepted until a written acknowledgement of order is issued by the Company (or if earlier) delivery of the Products.

1.5 No order which has been accepted by the Company may be cancelled by the Buyer except with the agreement of the Company, and on terms that the Buyer will indemnify the Company in full against all loss and expenses incurred by the Company as the result of such cancellation.

2. PRICES

2.1 The price payable for the Products will be the Company's quoted price, or in the absence of such quotation, the price specified in the Company's price list in force at the date of acceptance of order. Such price shall be exclusive of any duties, value added or other taxes, and all handling charges, freight, packaging, insurance or other similar costs which shall be charged in addition, unless otherwise expressly stated or agreed in writing by the Company.

2.2 All quotations issued by the Company for the supply of Products shall remain open for acceptance for the period stated in the quotation or, if none is stated, for ninety (90) days from the date of the quotation, unless previously withdrawn by the Company.

2.2 The Company shall not modify the price payable under the Contract at any time before delivery unless to reflect any changes to its costs resulting from any alteration in or addition to the Buyer's order requirements.

3. PAYMENT

3.1 Unless otherwise agreed in writing, payment of the Price of the Products in full (without any deduction by way of set-off counterclaim or otherwise) shall be made to the Company in cleared funds and in UK pounds sterling, either prior to the shipment of the Products or for account customers, no later than thirty (30) days from the date of the Company's invoice therefore. Time for payment shall be of the essence.

3.2 Unless the Buyer is a credit approved account customer, the Company shall be under no obligation to deliver the Products until payment for the same (including all duties, taxes, freight and other such charges) has been received by the Company in full.

3.3 In the event of late payment, the Company reserves the right to:
(i) suspend deliveries and/or cancel its outstanding obligations to the Buyer;

(ii) charge interest at an annual rate equal to 3% above the base lending rate of the Bank of England for the time being on all unpaid amounts calculated on a day to day basis from the date payment fell due until the actual date of payment in full (whether before or after judgment).

4. SPECIFICATIONS & CHANGES

4.1 The quantity and description of the Products shall be as set out in the Company's acknowledgement of order.

4.2 The Company reserves the right to make any change on prior notice in the Specification of the Products which does not materially affect the performance or price thereof. The Buyer shall confirm or cancel any order promptly on receipt of such notice.

4.3 Products which are incorrectly ordered and/or surplus to requirements may only be returned at the Company's option, and with its prior authorization, and at the Buyer's expense.

5. DELIVERY

5.1 The Company will select the method of shipment and the carrier to be used, unless otherwise agreed by the Company in writing. Where the Products are supplied for export from the UK, the Products shall be delivered FCA the air or sea port of shipment.

5.2 Whilst the Company will use all reasonable endeavors to avoid delay in delivery, time for delivery will not be of the essence and failure to deliver by any specified dates will not entitle the Buyer to cancel the Contract, nor will the Company be liable for any direct, indirect, consequential or economic loss due to delay in delivery whatsoever.

5.3 The Buyer shall notify the Company within five (5) working days in writing of any short delivery or defects reasonably discoverable on careful examination. The Company's sole obligation shall be, at its option, to replace any defective Products or refund the purchase price of any undelivered Products.

5.4 Where delivery of any Product requires an export license or other authorisation before shipment, the Company shall not be responsible for any delay in delivery due to delay in, or refusal of, such license or authorisation.

5.5 If the Company delivers a quantity of the Products up to 10% more or less than the quantity ordered the Buyer shall not be entitled to reject the Products by reason of the shortfall or surplus and shall pay for such Products at the pro rata contract rate.

5.5 The Company may deliver the products in instalments and each instalment will be a separate Contract.

6. RISK & RETENTION OF TITLE

6.1 The Products are at the risk of the Buyer from the time of delivery of the same to the carrier.

6.2 The property in the Products shall not pass to the Buyer until the Company has received in full (in cash of cleared funds) the price of the Products and all other sums which are or become due to the Company from the Buyer on any account.

6.3 The Company shall be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not yet passed to the Buyer.

7. RESTRICTIONS AND CONDITIONS OF USE

7.1 The Buyer acknowledges that unless expressly specified otherwise by the Company in writing, all of the Goods are intended for use in laboratory research only, and such Goods must not be used in diagnostic, clinical or medical applications nor in any manufacturing process, or incorporated in any manufactured product.

7.2 The Buyer acknowledges that it is solely responsible for ensuring compliance with any regulatory requirements or other restrictions related to its use of the Products.

7.3 The Buyer undertakes to strictly adhere to any guidance and/or restrictions concerning the use, handling or storage of the Products set out on the Products and/or contained in the product insert sheet or other documentation accompanying the Products, or otherwise supplied or published by the Company from time to time.

8. WARRANTY

8.1 The Company warrants that (subject to the other provisions of

these Conditions) at the time of delivery the Products will be of satisfactory quality and correspond with their Specification.

- 8.2 The Company shall not be liable for any warranty claim unless the Buyer gives written notice of the defect within 30 days of delivery of the Products or, if later (where the defect was not apparent on reasonable inspection) within 3 days of the time when the Buyer discovers or ought to have discovered the defect.
- 8.3 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are excluded to the fullest extent permitted by law.
- 8.4 The Company's sole liability and Buyer's exclusive remedy for a breach of the warranties in Condition 8.1 is limited to either replacement of the defective Products or a refund of the price paid for the Products (or a proportionate part) at the sole option of the Company, provided that if the Company so requests, the Buyer shall return the defective Products to the Company

9. LIMIT OF LIABILITY

- 9.1 The Company shall have no liability under the warranties contained in Condition 8.1 in respect of any defect in the Products arising from: specifications or materials supplied by the Buyer; fair wear and tear; wilful damage or negligence of the Buyer or his employees or agents; abnormal working conditions at the Buyer's premises; failure to follow the Company's instructions (whether oral or in writing); misuse or alteration of the Products without the Company's approval; or if the total price for the Products has not been paid.
- 9.2 Subject to provisions of Conditions 5 and 8, the following provisions set out the entire financial liability of the Company (including liability for the acts or omissions of its employees, agents and subcontractors) to the Buyer in respect of:
- (i) any breach of these Conditions;
 - (ii) any use made of the Products;
 - (iii) any representation, statement tortious act or omission including negligence arising under or in connection with the Contract;
- (each an "Event of Default").
- 9.3 Nothing in these Conditions excludes or limits liability for death or personal injury caused by the Company's negligence, or for fraudulent misrepresentation.
- 9.4 Subject to Condition 9.3:
- (i) the Company's entire liability in respect of an Event of Default shall not exceed the price paid by the Buyer pursuant to the Contract;
 - (ii) the Company shall not be liable to the Buyer in respect of an Event of Default for any type of special, indirect, consequential, or pure economic loss whatsoever including (without limitation) any loss of profits, business, goodwill or contract or business interruption.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 Where the Buyer supplies designs, drawings, and/or specifications to the Company to enable it to manufacture non-standard or custom made Products, the Buyer warrants that such manufacture will not infringe the intellectual property rights of any third party.
- 10.2 All intellectual property rights in or connected with the Products shall at all times remain vested in the Company.

11. HEALTH, SAFETY AND WASTE

The Buyer shall ensure that:

- (i) the specification of the Products is safe for the intended use;
- (ii) the Products are handled in a safe manner and in accordance with the Company's instructions and/or good practice; and
- (iii) any waste originating from the Products or their use is disposed of in accordance with any relevant regulations.

12. INDEMNITIES

- 12.1 Except where the claim arises as a result of the negligence of the Company, the Buyer shall indemnify the Company in respect of all and any claims, damages, losses, costs, expenses or other liability of whatever nature which is incurred or suffered by the Company:

- (i) arising from or in connection with the Buyer's use of the Products; and/or
- (ii) arising from or connection with allegations that the use to which the Products are put infringes the intellectual property rights of any third party; and/or
- (iii) any misuse or abuse of the Products.

13. INSOLVENCY

In the event that the Buyer becomes bankrupt or, being a company, goes into liquidation, the Company shall be entitled, without liability to the Buyer, to immediately terminate the Contract without notice, suspend further deliveries, and demand immediate payment in respect of any Products which have been delivered but not yet paid for by the Buyer.

14. FORCE MAJEURE

- 14.1 The Company shall not be liable in respect of the delay in performing or non-performance of any of its obligations under the Contract to the extent such performance is delayed or prevented by any circumstances beyond its reasonable control including but not limited to strikes or labour disputes of any kind (whether relating to its own employees or others), fire, flood, explosion, natural catastrophe, military operations, blockade, sabotage, revolution, riot, civil commotion, war or civil war, plant breakdown, computer or other equipment failure, inability or delay in obtaining supplies or adequate materials (an 'event of force majeure').
- 14.2 If an event of force majeure continues for a continuous period in excess of one month either party may cancel the Contract without liability.

15. GENERAL

- 15.1 If any provision of the Contract is found by a court or other competent authority to be invalid, illegal or unenforceable in whole or in part it shall to the extent of invalidity, illegality or unenforceability be deemed severable and the remainder of such provision and the remaining provisions of the Contract shall not be affected.
- 15.2 The parties to the Contract do not intend that any term of the Contract will be enforceable by virtue of the Contract (Rights of Third Parties) Act 1999 by a person who is not a party to it.
- 15.3 Each right or remedy of the Company under the Contract is without prejudice to any other right of remedy it may have.
- 15.4 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

16. GOVERNING LAW

- 16.1 The parties agree that the Contract shall be governed by and construed in accordance with the laws of England where the Company's principal or registered office is situated and the Buyer agrees to submit to the exclusive jurisdiction of the English courts.