



TERMS AND CONDITIONS OF SALE

For the purposes of these Terms and Conditions of Sale, the term 'contract' shall mean the agreement between Quant Technologies LLC ('Supplier') and Buyer arising as a result of Buyer's submission of an order for Supplier's products. Such contract shall be deemed to incorporate and be governed by these Terms and Conditions. **THESE TERMS AND CONDITIONS SHALL TAKE PRECEDENCE OVER ANY TERMS AND CONDITIONS WHICH APPEAR IN BUYER'S ORDER OR IN ANY DOCUMENTS INCORPORATED BY REFERENCE IN BUYER'S ORDER.** No term or condition of Buyer's order additional to or different from these Terms and Conditions shall become part of the contract unless explicitly agreed to in writing by Supplier. Retention by Buyer of any products delivered by Supplier, or payment by Buyer of any invoice rendered hereunder, shall be conclusively deemed acceptance of these Terms and Conditions. Supplier's failure to object to any provision contained in any communication from Buyer shall not be construed as a waiver of these Terms and Conditions nor as an acceptance of any such provision. **Notwithstanding the foregoing, in the event the Buyer is a party to a Distributor Agreement with Supplier, the terms and conditions of the Distributor Agreement shall prevail.**

- 1. Quotations:** Prices, specifications and dates for delivery referenced in Seller's quotations are for information purposes only and shall not be binding on Seller until all technical requirements have been agreed and Seller has accepted Buyer's order. Quotations terminate if not accepted by Buyer within 90 days.
- 2. Orders:** By submitting an order to Supplier, Buyer agrees to be subject to these Terms and Conditions of Sale in their entirety. All orders must be bona fide commitments showing definite prices and quantities and mutually agreed shipping dates. No order, whether or not submitted in response to a quotation by Supplier, shall be binding upon Supplier until accepted in writing by Supplier.
- 3. Prices and Taxes:** Prices do not include federal, state or local taxes, including without limitation sales, use or excise taxes now or hereafter enacted, applicable to the products sold in this transaction, which taxes may, in Supplier's discretion, be added by Supplier to the sales price or billed separately and which taxes shall be paid by Buyer unless Buyer provides Supplier with any necessary tax exemption certificate.
- 4. Shipment and Delivery:** All products will be shipped (USA) F.O.B. Supplier's premises / (International) Ex-Works Supplier's premises and may be so shipped in several lots. In the absence of specific instructions, Supplier will select the carrier and ship 'prepaid' and added to the invoice, but shall not be deemed thereby to assume any liability in connection with the shipment nor shall the carrier be construed to be the agent of Supplier. Buyer must provide its own insurance. Title and risk of loss or damage to all products sold hereunder shall pass from Supplier to Buyer upon delivery by Supplier to the possession of the carrier, provided that Supplier reserves a purchase money security interest in the products. Any claims for loss, damage or misdelivery thereafter shall be filed with the carrier. All products shall be deemed finally inspected and accepted within ten business days after delivery unless notice of rejection is given in writing to Supplier within such period. Acceptance shall constitute acknowledgement of full performance by Supplier of all obligations under the contract except as stated at Section 10 (*Warranties*).
- 5. Terms of Payment:** Each shipment shall be a separate transaction and Buyer will be invoiced on date of dispatch. Unless otherwise stated on Supplier's invoice, terms of payment shall be net thirty (30) days from date of invoice. Supplier may, in its sole discretion, determine at any time that Buyer's financial condition requires payment in advance, and, if such requirement is not met, may cancel the order or any part thereof and receive reasonable cancellation fees. If Buyer fails to pay any payment due hereunder when due, Supplier may recover, in addition to the payment, interest thereon at the rate of 1 1/2% per month where lawful, otherwise the maximum lawful monthly interest rate, and reasonable attorney's fees.
- 6. Contingencies:** Supplier shall not be liable for any delay in delivery or for non-delivery, in whole or in part, caused by the occurrence of any contingency beyond the control of Supplier, including, by way of illustration but not limitation, war (whether an actual declaration thereof is made or not), sabotage, insurrection, riot or other act of civil disobedience, act of a public enemy, failure or delay in transportation, act of any government or any agency or subdivision thereof, judicial action, labor dispute, accident, fire, explosion, floods, storm or other act of God, shortage of labor, fuel, raw material or machinery or technical failure where Supplier has exercised ordinary care in the prevention thereof. If any such contingency occurs, Supplier may allocate production and deliveries among Supplier's customers.
- 7. Equipment:** Supplier may modify specifications provided the modifications do not adversely affect the performance of the equipment to be supplied under the contract ("the equipment"). In addition, Supplier may furnish suitable substitutes for materials unobtainable because of priorities or regulations established by government authority, or non-availability of materials from suppliers.

8. Software: Supplier shall at all times have and retain title and full ownership of all software, firmware programming routines, and documentation thereof supplied by Supplier for use with the equipment, and of all copies thereof made by Buyer (collectively 'software'). Supplier grants Buyer a non-exclusive and non-transferable license to use such software solely for use with the equipment. Buyer shall take all reasonable steps to protect Supplier's proprietary interest in the software and shall not transfer or otherwise provide the software to any third party. The owner of an original Software License or License to Copy for a Quant Technologies LLC software product may use the software only on a single CPU. Copies of the software may be made as necessary to assure redundancy in case of media failure. Otherwise, the purchaser of a Software License agrees not to copy, sell or otherwise distribute the software without the express written agreement of Quant Technologies LLC.

9. Limitation of Warranties:

- A.** Supplier warrants that all equipment shall be free from defects in material and workmanship under normal use for a period of one year (unless published differently) from date of receipt of shipment to Buyer save that Supplier does not warrant that operation of the software will be completely uninterrupted or error free or that all program errors will be corrected. Buyer shall be responsible for determining that the equipment is suitable for Buyer's use and that such use complies with any applicable local, state or federal law. Provided that Buyer notifies Supplier in writing of any claimed defect in the equipment immediately upon discovery and any such equipment is returned to the original shipping point, transportation charges prepaid, within one year from date of shipment to Buyer and upon examination Supplier determines to its satisfaction that such equipment is defective in material or workmanship, i.e. contains a defect arising out of the manufacture of the equipment and not a defect caused by other circumstances, including, but not limited to accident, misuse, unforeseeable use, neglect, alteration, improper installation, improper adjustment, improper repair, or improper testing, Supplier shall at its option repair or replace the equipment, shipment to Buyer prepaid. Supplier shall have reasonable time to make such repairs or to replace such equipment. Any repair or replacement of equipment shall not extend the period of warranty. If the instrument is modified or in any way altered without the explicit written consent of Supplier, then the warranty is null and void. This warranty is valid only for the customer who is specified as the "ship to" address on the Purchase Orders.
- B.** If Buyer shall fail to pay when due any portion of the purchase price or any other payment required from Buyer to Supplier under this contract or otherwise, all warranties and remedies granted under this Section 10 may, at Supplier's option, be terminated.
- C.** If the instrument is modified or in any way altered without the explicit written consent of Quant Technologies LLC, then the warranty is null and void.
- D.** THEREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS, WARRANTIES AND COVENANTS, EXPRESS OR IMPLIED WITH RESPECT TO THE EQUIPMENT AND ANY DEFECTS THEREIN OF ANY NATURE WHATEVER, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SUPPLIER SHALL NOT BE LIABLE FOR, AND BUYER ASSUMES ALL RISK OF, ANY ADVICE OR FAILURE TO PROVIDE ADVICE BY SUPPLIER TO BUYER REGARDING THE EQUIPMENT OR BUYER'S USE OF THE SAME. UNDER NO CIRCUMSTANCES SHALL SUPPLIER BE LIABLE TO BUYER UNDER ANY TORT, NEGLIGENCE, STRICT LIABILITY, OR PRODUCT LIABILITY CLAIM AND BUYER AGREES TO WAIVE SUCH CLAIMS. SUPPLIER'S SOLE AND EXCLUSIVE LIABILITY, AND BUYER'S SOLE AND EXCLUSIVE REMEDY, FOR ANY NONCONFORMITY OR DEFECT IN THE PRODUCTS OR ANYTHING DONE IN CONNECTION WITH THIS CONTRACT, IN TORT (INCLUDING NEGLIGENCE), CONTRACT, OR OTHERWISE, SHALL BE AS SET FORTH IN SUBSECTION 9A HEREOF AS LIMITED BY SUBSECTION 9B HEREOF. THIS EXCLUSIVE REMEDY SHALL NOT HAVE FAILED OF ITS ESSENTIAL PURPOSE (AS THAT TERM IS USED IN THE UNIFORM COMMERCIAL CODE) PROVIDED THAT THE SELLER REMAINS WILLING TO REPAIR OR REPLACE DEFECTIVE EQUIPMENT (AS DEFINED IN SUBSECTION 9A) WITHIN A COMMERCIALLY REASONABLE TIME AFTER RECEIVING SUCH EQUIPMENT. BUYER SPECIFICALLY ACKNOWLEDGES THAT SELLER'S PRICE FOR THE EQUIPMENT IS BASED UPON THE LIMITATIONS OF SUPPLIER'S LIABILITY AS SET FORTH IN THIS CONTRACT.
- E.** If the instrument is transferred outside of a distribution territory, then the warranty is null and void.

10. Limitation of Liability and Buyer Indemnity: IN NO EVENT, REGARDLESS OF THE FORM OF ACTION, SHALL SUPPLIER BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL LOSSES OR DAMAGES ARISING OUT OF THE SALE OF ITS PRODUCTS TO BUYER OR ARISING OUT OF ANYTHING DONE IN CONNECTION WITH THE CONTRACT, INCLUDING, BUT NOT LIMITED TO, LOSSES OR DAMAGES ARISING OUT OF CLAIMS FOR LOSS OF USE, BUSINESS, GOODWILL, OR PROFITS, AND CLAIMS ARISING OUT OF THIRD PARTY ACTIONS, REGARDLESS OF WHETHER SUCH THIRD PARTY ACTIONS, OR ANY OTHER CLAIMS, LOSSES, OR DAMAGES, WERE REASONABLY FORESEEABLE TO BUYER OR SUPPLIER. BUYER'S EXCLUSIVE REMEDY ARISING OUT OF ITS PURCHASE AND USE OF SUPPLIER'S PRODUCTS, OR ARISING OUT OF ANYTHING DONE IN CONNECTION WITH THE CONTRACT, SHALL BE FOR DAMAGES AND NO CLAIM OR CLAIMS OF ANY KIND, WHETHER BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, WARRANTY AND STRICT LIABILITY), STATUTORY OR REGULATORY PROVISIONS, INDEMNITY, CONTRIBUTION, OR OTHERWISE, SHALL BE GREATER IN AMOUNT IN AGGREGATE THAN THE PURCHASE PRICE OF THE PRODUCTS IN RESPECT OF WHICH DAMAGES ARE CLAIMED.

Buyer shall indemnify and hold harmless Supplier, its officers, agents, employees, subsidiaries, parents, affiliates and insurers from and against any and all liabilities, damages, losses, claims, lawsuits, including costs and expenses in connection therewith, for death or injury to any persons or loss of any property whatsoever, caused in any manner by Buyer's possession, use or operation of equipment.

11. Proprietary Information: Buyer represents that it has adopted reasonable procedures to protect Proprietary Information, as defined hereafter, including binding agreements with employees and consultants to prevent unauthorized publication, disclosure or use of such during or after the term of their employment by or services for Buyer. Buyer shall not use Proprietary Information except as required for the use of the equipment, shall not disclose Proprietary Information to any third party, and shall not transmit any documents or copies thereof containing Proprietary Information to any third party, except as may be authorized in writing by Supplier. This Section 13 shall survive termination of the contract.

"Proprietary Information" shall mean information or data of Supplier, or a third person to whom Supplier owes obligations of confidentiality, and which is furnished or to be furnished to Buyer in written, graphic or machine-readable form and is marked proprietary or confidential. Where copies or alternative forms of information or data are received from Supplier, such information or data shall be considered Proprietary Information if at least one of said copies or alternative forms is marked proprietary or confidential.

This Section 13 shall not apply to information which Buyer demonstrates was in Buyer's possession prior to receipt from Supplier or information which Buyer demonstrates is or has become available to the public or general knowledge in the industry otherwise than through the fault of Buyer.

12. Rescheduling and Cancellation: Orders accepted by Supplier may be cancelled or rescheduled by Buyer only with the written consent of Supplier (which consent Supplier may withhold for any reason) and upon payment of Supplier's cancellation or rescheduling charges. Supplier shall have the right without penalty or payment to cancel any order accepted (i) if Buyer fails to make any payment when due to Supplier under the contract or any other contract (ii) if any act or omission of Buyer delays Supplier's performance, (iii) if Buyer violates any of these Terms and Conditions, or (iv) if Buyer's credit becomes impaired; and in the event of such cancellation Supplier shall be entitled to receive reimbursement for its reasonable and proper cancellation charges.

13. Returns: When a customer requests to return a product, a Return Materials Authorization number (RMA) is required from the Quant Technologies Corporate Office in Blaine, Minnesota, USA (1-763-398-0508 or email info@quanttechnologies.com). The RMA number must be noted on the shipping label and any paperwork accompanying the return. Returns will not be accepted without the RMA number.

14. Non-Waiver; Remedies: No waiver of any breach of these Terms and Conditions shall constitute a waiver of any prior or subsequent breach of any similar or dissimilar provision or a modification of the contract. All Supplier rights and remedies, whether evidenced hereby or by any other contract or document, shall be cumulative and nonexclusive and may be exercised singularly or concurrently.

15. Applicable Law and Actions to Recover Damages: The validity, performance and construction of the contract shall be governed by the laws of the State of Minnesota. If any provision of these Terms and Conditions is held to be unenforceable, such holding shall not affect the enforceability of any other provision. Any legal presumption that terms in this contract shall be strictly construed against the party who drafted such terms or who benefits from such terms shall not be employed in construing and interpreting this contract. Prior to commencement of any legal proceedings, Buyer and Supplier shall meet at a senior level to attempt to resolve differences. Notwithstanding any attempts to resolve differences or negotiations regarding such differences, any action brought by Buyer against Supplier arising out of this contract or Buyer's purchase and use of the equipment must be commenced within one year after such action accrues and in no event later than two years after date of shipment of such equipment.

16. Government Contracts: If the products to be furnished under the contract are to be used in the performance of a U.S. Government contract or subcontract, the Government contract number and a statement to that effect shall appear on Buyer's purchase order. If Buyer's purchase order includes all of said information and if said order is accepted in writing by Supplier, then those clauses of the applicable Government procurement regulations which are mandatorily required by Federal statute or regulation to be included in this contract shall be incorporated herein by reference. In all other events, said clauses shall not be incorporated herein by reference.

17. Export: Regardless of any disclosure made by Buyer to Supplier of the ultimate destination of Supplier products, Buyer shall not export either directly or indirectly any Supplier product, or any system incorporating said product either in contravention of statute or regulation or without first obtaining all required licenses and permits from the United States Department of Commerce and any other relevant agencies or departments of the United States government.

18. Assignment: The contract shall be binding upon and inure to the benefit of the parties and their respective legal representatives, successors and permitted assigns. The contract is personal to Buyer, and Buyer may not assign any of its rights or delegate any of its obligations thereunder, in whole or in part, without the prior written consent of Supplier which may be withheld for any reason.

19. Complete Agreement; Modifications: This contract constitutes the entire agreement between the parties relating to the sale of the equipment and no addition to or modification of any provision of said agreement shall be binding upon Supplier unless agreed in writing by Supplier.

20. Notices: All notices given under the contract shall be in writing, mailed by first class mail, certified or registered, or delivered by hand to the address of the other party set forth in the quotation or to such other address as such party may designate from time to time by such notice, and shall take effect when received.

WARRANTY ON PAID REPAIRS

Unless otherwise indicated, Quant Technologies LLC provides a warranty of six (6) months on all repairs including parts and labor performed by Supplier's Field Service or Factory Service personnel. This warranty is valid only for the customer who is specified as the "Ship to" address on the Purchase Order and applies only to those parts replaced or repaired. See standard **Limitation of Warranties:** for full disclosure

WARRANTY OF SPARE PARTS

Spare parts purchased for installation by Non-supplier Personnel have no implied warranty. Spare parts purchased for installation by Supplier Service Personnel have a six-month warranty, from date of shipment.

POLICY FOR CHEMICAL MONITORING

Because of the wide variety of chemicals used, the varied conditions under which they can be used, and the extensive use of proprietary chemicals and gases, it is not possible for Quant Technologies LLC to test all of the chemicals, mobile phases, buffers, additives, gases and combinations of chemicals and gases potentially used in its instruments. Quant Technologies LLC has tested its instruments with many chemicals and gases used in a typical analytical chemistry laboratory and will aid its customers in determining compatibility of the instruments with chemicals which we have tested. Supplier publishes the materials that come in contact with the process chemicals "wetted surfaces" to aid the user in determining compatibility. However, it is the responsibility of the Buyer to determine the compatibility and suitability of Supplier's instruments in each specific user application.