# ADVANCED SENSORS LIMITED

## Standard Terms and Conditions of Sale

## 1. The Contract

1.1.1 **Contract.** In these terms and conditions (these "**Terms**"), the contract means your purchase order for goods and/or services as accepted by us (Advanced Sensors Limited) on our official Order Acknowledgement Form sent to you by fax, email, our website or any other electronic means.

1.1.2 **Intended Use and Destination.** Your purchase order must state the intended end use and destination of the goods. We may at our entire discretion and without giving any reason, decline to accept any purchase order or other request or offer to buy our goods or services.

1.2 **Exclusive Terms.** Unless otherwise agreed by us in writing, these Terms will apply to all quotations issued by us and the supply of all goods and services by us to the exclusion of any terms or conditions of yours, and supersede any previous terms of trade between us. Any additional or different terms in your order are rejected and not binding on us, unless we have expressly agreed to such terms in writing. In the event of any conflict or inconsistency between these Terms and any other terms of the contract, these conditions will prevail.

1.3 **No Cancellation.** Once so accepted by us, your purchase order cannot be cancelled in whole or part without our prior written consent, and you may not return any goods. To the extent that we agree, in our sole discretion, to such cancellation or the return of goods, you will reimburse us for (i) our normal profit on the supply of such goods and services, (ii) all costs and expenses incurred by us in connection with the transportation of the goods and the provision of the services, (iii) costs, charges and expenses that we incurred as the result of placing orders with third parties for the supply of materials or parts for the goods, and (iv) a restocking fee of not less than 25% of the price of the goods to be determined by us at our sole discretion. Where the goods are made to your specification, we reserve the right instead to make a cancellation charge of up to 100% of the price of the goods and services to be determined by us at our sole discretion. We will invoice you for the cancellation charges. We will not be responsible (or have any liability whatsoever) for any goods returned to us without our written consent, and we will be entitled to reject the return of such goods.

1.4 **No Variation or Waiver.** No person acting on our behalf has any authority orally to add to or vary any of the terms of the contract or to waive any of our rights under it. No such addition or variation shall have any effect unless confirmed by us upon our issue by fax, email, our website or any other electronic means of our Changed Order Acknowledgement. No such waiver shall have any effect unless agreed by us by an authorised officer in writing, nor will such waiver be considered to constitute a general waiver of those or any other such rights.

1.5 **No Assignment.** You may not assign or otherwise transfer the contract without our prior written consent, and except as expressly set out in these conditions, no-one other than you and your permitted assignees will have any rights under the contract, whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.

1.6 **Governing Law.** The contract will be governed by the laws of England and Wales (without regard to any conflict of law provision that might otherwise apply). The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms. You agree to the exclusive jurisdiction of the Courts of England and Wales in all matters relating to it and will submit to their jurisdiction accordingly; provided, however, we shall have the right to pursue any remedies against you in any other court having proper jurisdiction. You waive any right to a jury trial. All communications between us in relation to our goods or services or the contract will be in English.

1.7 **Headings.** The headings to the clauses of these terms and conditions shall not affect their meaning.

## 2. The Goods and Services

2.1 **Our Changes to Goods.** Because we continuously improve the quality and performance of our goods, they will be subject to changes in specifications, design, materials, components and finishes at our discretion.

2.2 **Compliance with Requirements**. Our goods and services comply with most of the commonly applicable certifications, standards and regulatory requirements, and this information is available at your request. We will not, however, be responsible for ensuring that they comply with any such requirements specific to the jurisdictions for which they are intended, which will be your responsibility.

2.3.1 **Intellectual Property Rights.** You acknowledge that all intellectual property rights, including unregistered design right, copyright, registered designs and patents, utility models and applications for them in the United Kingdom or elsewhere (regardless of when such intellectual property was issued, conceived, generated or produced), confidential information and other similar rights throughout the world, in and in relation to all our goods and their components (excluding any firmware, software and other items which are proprietary to others) and their drawings, designs, documentation, specifications, operating manuals and user instructions, will belong to us absolutely, and you will not reproduce or use any of it for any purpose whatsoever without our prior written consent. You will at our expense take such steps as we may reasonably request to establish, prosecute and defend those rights or assist us to do so.

2.3.2 **Firmware and Software.** You will have a non-exclusive, non-transferable and royalty-free licence to use the firmware and software incorporated into the goods as initially configured by us and, subject to your payment of any such additional fee as we may require, on updated, upgraded or otherwise enhanced computer processors or controllers comprising or used in conjunction with the goods. You may not use, copy or disclose to any third party any of our firmware or software, or decompile, disassemble or otherwise reverse engineer any of its object code. You may not store, copy, use or disclose to any third party any of the source code or specifications of the object code, and will permanently delete it from your computers and storage media and return it to us immediately.

## 3. Delivery and Performance

3.1 **Delivery.** Except as otherwise agreed by us in writing, all goods will be delivered ex works (Incoterms 2010) at our facility in the United Kingdom, loaded and packed for

overland transport, during our normal business hours. At your written request and expense, and without liability to you, we will use reasonable efforts to make such arrangements on your behalf for the further packing, collection and carriage of the goods to such address as you request in your purchase order.

3.2 **Delivery Procedures.** Whilst we will use reasonable efforts to do so, we will not be obliged to comply with any delivery procedures of yours. We will be entitled to release the goods for collection by any carrier notified in writing by you who purports to be collecting them on your behalf.

3.3 **Part Deliveries.** Unless otherwise agreed by us in writing, part deliveries are permitted.

3.4 **Delivery Time.** We will use our reasonable efforts to deliver the goods or perform the services on any date or within any period for delivery or performance agreed by us, but time for delivery or performance will not be of the essence, and we will not be liable for any loss or expense whatsoever caused by late delivery or performance. In any event, we reserve the right to cancel all or any part of the contract or suspend or delay delivery or performance or all or any of the goods or services, without liability to you, if the delivery of the goods or performance of the services is prevented or delayed because of any circumstances beyond our reasonable control.

3.5 **Risk of Loss; Inspection.** Except as otherwise agreed by us in writing, the risk of loss or deterioration of or damage to the goods and the property in the goods will pass to you on delivery, but this will not prevent us from exercising any applicable right of stoppage of the goods in transit. You will inspect the goods for apparent damage within 7 days, and we will not be liable for any such damage not reported to us in writing within 10 days, of delivery ex works or arrival at your requested destination, whichever is the earlier.

3.6 **Shortages.** We will not be liable for any shortage in the goods as delivered, unless you notify us in writing within 14 days of delivery, or for complete non-delivery of the goods, unless you notify us in writing within 14 days of date of invoice.

3.7 **Access for Services.** You will ensure that on and from the date, as notified to you, that we will commence performance of the services and until such performance and any applicable testing is complete, we will have sufficient access and reasonable working conditions and there will be an adequate supply of utilities for the installation and commissioning of the goods and the performance of the services at your nominated site.

3.8.1 **Your Failure to Accept Goods.** If you are unable or unwilling to accept delivery of the goods in accordance with these terms and conditions on the delivery date notified to you, we may retain the goods and arrange for or provide their storage and insurance as we think appropriate, at your expense. Where we provide such storage, we will be entitled to charge you at our then current standard rates for storage. Such retention or despatch of any of the goods for storage will be treated as constituting their delivery to you in accordance with the contract for all the purposes of these terms and conditions.

3.8.2 **Your Delay for Services.** If you are unable or unwilling for any reason to accept performance of the services in accordance with these terms and conditions on the date notified to you, we will use our reasonable efforts to perform the services as soon as practicable following your confirmation, by not less than 14 days' notice in writing, of the

date on which you will be ready. If that date is more than 30 days later than the date notified to you, we will be entitled to invoice you and be paid for the services as if they had been completed, and to invoice you following performance for any additional cost or expense of performance resulting from the delay.

## 4. Prices, Invoicing and Payment

4.1 **Price.** The prices for the goods and services will be those contained in our quotation to you, errors and omissions excepted, provided that your purchase order is received by us within 90 days from the date of the quotation, or as otherwise agreed by us in writing. We may nevertheless change the price quoted for goods to the price in effect at the time the purchase order is released to final manufacture. Surcharges may be implemented without advance notice. Surcharges will not be refunded for any reason.

4.2 **Additional Charges.** Except as otherwise agreed by us in writing, the prices for the goods are ex works, and all costs of carriage incurred by us will be charged extra. Any applicable VAT or other taxes or duties will be charged extra. All queries on our invoices must be made within 30 days of the date of invoice, after which you will be considered to have accepted them. If you query part of an invoice, you must pay the remainder by the due date, and on resolution of the query, the balance must be paid within 7 days.

4.3 **Part Invoice.** We reserve the right to part invoice for goods and services.

4.4 **Payment.** Unless otherwise agreed by us in writing, the prices for the goods and services and all other sums due to us will be payable within 30 days of the date of invoice, subject to our having received credit references acceptable to us at our entire discretion, failing which they will be payable prior to manufacture or performance of the goods or services concerned. You are not entitled to any discount for early payment. All sums due to us will be paid in full and without any deduction or set-off whatsoever on your part.

4.5 **Failure to Pay; Breach; Bankruptcy.** Upon the occurrence of any of the following events: (a) you fail to pay any sum to us by the due date; (b) you breach any other obligation to us under the contract; (c) you make a voluntary arrangement with your creditors, a receiver or administrative receiver is appointed for you or any of your assets, a petition is presented for your administration, winding-up or bankruptcy, or you enter into liquidation, or take or suffer any analogous action; (d) a creditor takes possession of your assets; (e) you cease or threaten to cease to carry on business; (f) we reasonably believe that you will be unable to pay your debts to us as they fall due; or (g) we reasonably believe any of the foregoing events is likely to occur; then we may take any or of the following actions, without prejudice to any other rights or remedies we may have, and without incurring any liability to you: (i) we may declare all sums owed by you to be immediately due and payable; (ii) we will be entitled to require payment in full prior to further manufacture or delivery of the goods or performance of the services; (iii) we may cancel, suspend or terminate all or any further manufacture or delivery of the goods or performance of the services; or (iv) we may cancel the contract, in whole or in part.

4.6 **Late Payment.** We may charge you interest on any sums not paid to us by the due date at the rate of 1% per whole or part month, and you will reimburse us for all debt collection and legal costs and expenses incurred by us in attempting to recover such sums. We may treat any sums received from you as being in payment first of any such costs and expenses, then interest accrued, and then all other amounts owed to us in

date order, starting with the oldest, regardless of any disputes or your attribution of payment to any particular invoices.

4.7 **Enforcing Our Rights.** You agree to indemnify us for any cost and expenses we incur in connection with enforcing our rights under the contract.

## 5. Warranty and Liability

5.1 **Exclusive Remedy.** We will within a reasonable time and as your exclusive remedy (a) at our option and expense as to parts and labour only, repair or replace FOB our place of shipment or refund the price (less such reasonable reduction as we may think appropriate) of such of the goods as are shown to our reasonable satisfaction to have failed to conform with our applicable specifications or contain defects in materials or workmanship, in relation to new products, within one year from the date of installation of the goods or eighteen months from the date of invoice, whichever is the earlier, or such other period as may be stated in our Order Acknowledgement Form, in relation to spare parts, within six months from the date of shipment, in relation to the repair or refurbishment of the products, within three months from the completion of the repair or refurbishment or the remainder of the warranty period on the original sale of the products, whichever is the longer, and in relation to other services, within ninety days from the date on which the services are performed, or (b) rectify or refund our charge to you for such of the services as are shown to our reasonable satisfaction not to have been of satisfactory quality, provided that:

(i) You shall have promptly notified us in writing of the alleged defects or deficiencies (A) not later than fourteen months from the date of installation of the goods or twenty months from the date of invoice, whichever is the earlier, or within two months from the end of such other period as is stated in our Order Acknowledgement Form, or (B) within one year from the date of performance of the services, and if so requested by us the goods have promptly at your expense been returned to our nearest appropriate service agent or our works in the United Kingdom;

(ii) the goods have at all times following delivery been kept in suitable conditions, and have been properly installed and maintained and used under normal operating conditions;

(iii) if requested, we have been given reasonable access to the site or sites where the goods have been kept or used and their maintenance and technical records, or to the products in relation to which the services have been performed;

(iv) if we are not reasonably satisfied that the goods are defective or deficient, or that the services hereunder (including installation) have not been performed with reasonable skill and care, as you have claimed, or any parts, consumables or personnel not supplied or recommended by us have at any time been used in the operation or maintenance of the goods, this warranty will be void and of no effect, and you will be liable to refund to us against our invoice all our time spent and costs and expenses incurred in responding to your claim; and

(v) to the extent that the due dates for payment under the contract and any other contracts between us have occurred prior to your having notified us of the claimed defects or deficiencies, you have paid our invoices for the goods or services in full.

5.2 **Returned Goods.** Any goods so returned to us will nevertheless remain your property and at your risk, pending the outcome of your claims. You will not return any of the goods to us except at our request.

5.3 **Indemnity.** Except as expressly stated in these Terms, and to the fullest extent permitted by law, you will release, defend, hold harmless and indemnify us fully against any claims, demands, suits, losses, liabilities, judgments, damages, costs and expenses (including without limitation court costs, litigation expenses and attorneys' fees) and causes of action for injury, death or property damage made by others against us or any of our officers, employees, agents or contractors for damage, injury, expense or loss of amenity, income, business or profit or any other loss, whether due to negligence, strict liability or otherwise arising from or in respect of the goods or services or the contract or incidental to the sale, delivery, installation or use of the goods sold by us to you.

5.4 **Limitation of Liability.** Notwithstanding anything else contained in these Terms or in any contract, in no event shall we be obligated or liable to you or any other person, in tort or contract or otherwise, based upon negligence, product liability, strict liability, or otherwise, for any damages or losses of any kind that are of special, consequential, punitive, incidental, exemplary, indirect, or contributory nature, including but not limited to those based upon any loss or damage resulting from your general or particular requirements and needs (even if we may have had reason to know of them), lost profits or revenue, anticipated savings, goodwill, facility or production downtime, costs of procurement of substitute goods, technology, services or rights, loss or damage of materials, loss or injury to person or property; nor shall we be liable for any damages for damage to or loss of your property based upon your use or possession of the goods. Without limiting the foregoing, we shall have no liability or responsibility for damage or loss of use of goods from transit, opening of the goods, accident, disaster, force majeure, misapplication, abuse, misuse, improper unloading or handling, negligence, vandalism, failure to properly maintain or operate, your programming or applications, modifications other than by us, integration with other applications, installation or repair attempts other than us, environment, external sources, or normal wear and tear. Notwithstanding anything else contained in these terms or in any contract, under no circumstances will our aggregate liability for any cause of action related to the contract or the goods or services covered hereby exceed such sum as we and you may have agreed in writing for the purposes of the contract or, in the absence of any such agreement, the sum of £50,000. We will not be liable to you for any matters arising from the contract for which proceedings have not been brought against us in the courts of England and Wales within one (1) year of the date of invoice for such goods or services.

5.5 **No Other Warranties or Representation.** Except as stated in these terms and conditions, to the fullest extent permitted by law, all conditions, warranties and representations, whether express or implied, statutory or otherwise in relation to the goods (other than such as relate to title to the goods) or services are excluded. Nothing contained in the contract will be treated as excluding or restricting any liability on our part for death or personal injury resulting from negligence.

5.6 **Consumable Parts.** Our sole obligation in relation to our consumable parts is that they are warranted despatched in good working order. To the extent that parts of the goods and consumable parts are not proprietary to us, we will not be responsible for any defects in them, but will at your request and to the extent that we are able to do so, transfer to you the benefit of whatever warranties and other rights as to defective products we have against the suppliers.

5.7 **Working Conditions for Services.** You will ensure that where we are performing the services at any site (other than our works) required by the contract, the site and its working conditions are not prejudicial to the health and safety of our personnel, or the personnel of our agents or contractors, and you will indemnify us against any claim, loss, damage or expense or injury of whatever nature suffered or incurred by us or any such personnel or any third parties, arising from or in respect of the performance of the services at the site, otherwise than as a result of our negligence.

5.8 **Not Responsible for Distributors or Agents.** We accept no responsibility for any acts or omissions on the part of any of our distributors and sales or service agents.

5.9 **Prices Based on Terms.** You acknowledge that the prices for the goods and services are based upon these terms and conditions, and accordingly confirm that the above limitations on and exclusions of liability and the insurability of the risks concerned have been taken into account by you in agreeing to those prices.

## 6. Compliance with Laws

6.1 **Export Laws.** You agree to comply with all applicable export and re-export control laws and regulations, including without limitation (a) the Export Control Act of 2002, the Export Control Order 2008, or any successor acts or order related thereto as in effect in the U.K., and all acts, orders, rules and regulations thereunder (collectively, "**UK Export Control Laws**"); and (b) the Export Administration Regulations ("**EAR**") maintained by the U.S. Department of Commerce, trade and economic sanctions regulations maintained by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**") and the International Traffic in Arms Regulations ("**ITAR**") maintained by the U.S. Department of State. At the time the order is placed, you must identify to our satisfaction the end-user application and/or dual applications for the good to be purchased. We reserve the exclusive right to refuse to accept any purchase order. You will be responsible for obtaining any license required under the UK Export Control Laws, EAR, OFAC regulations or ITAR. We will identify in writing to you those items, technology and software for which an export license is required and provide export classification and licensing information necessary for export documents, including but not limited to the appropriate U.S. Export Control Classification Number ("**ECCN**") from the Commerce Control List, the applicability of license exceptions, license numbers and copies of licenses. You agree to indemnify us for any fines, penalties, claims, losses, damages, costs (including legal costs), expenses and liabilities that may arise as a result of your breach of this Section.

6.2 **Anti-Bribery Laws.** You agree to comply, and your order for goods shall be deemed to be your certification that you comply, with all laws, regulations, and international conventions related to bribery and corruption, including but not limited to the UK Bribery Act of 2010 (http://www.legislation.gov.uk/ukpga/2010/23/contents) the U.S. Foreign Corrupt Practices (http://www.justice.gov/criminal/fraud/fcpa/statutes/regulations.html) and any applicable laws or regulation in furtherance of the Convention on Combating Bribery of Foreign Officials in International Business Transactions of the Organization of Economic Co-Operation and Development (OECD), which prohibits the payment of anything of value to governments, government officials, political parties, political party officials or relatives of such officials, whether directly or indirectly, to gain unfair advantage, obtain or retain business in marketing or selling products.