

Todd Research – Terms & Conditions of Sale

1. Preliminary

(a) In these conditions of sale 'the Seller' shall mean Todd Research Limited (a company registered in England and Wales, whose registered office is situated at Unit 9C Trafalgar Way, Bar Hill, Cambridge, Cambridgeshire, CB23 8SQ and whose principal place of business is Unit 1, with number 00477701). The Seller may trade under the names 'Todd Research', or other trading styles and names from time to time.

These conditions shall apply to any contract between the Seller and any person, firm or company ('the Buyer') placing an order with the Seller in respect of any goods, components, products or other items of services ('the Goods').
(b) The 'Special Conditions' shall mean all specific conditions relating to the Goods (including but not limited to descriptions, prices and place and time of delivery) contained in or referred to in our written 'Order Acknowledgment Form'. If there is any conflict between these conditions and the Special Conditions the Special Conditions shall prevail.

(c) Terms of carriage such as 'ex works', 'FOB' and 'CIF' and 'EX SHIP' which shall be deemed to include 'EX AIRCRAFT' shall be construed to the definition of such term contained in the uniform rules for the interpretation of trade terms ('Incoterms') current at the time that a contract is made.

2. Orders

(a) No quotation issued by the Seller shall constitute an offer to supply Goods but the terms contained in any quotation (including prices) will remain fixed if a contract is made within 30 days of the date of the quotation, unless otherwise stated in writing by the seller.

(b) The Seller will be under no liability for any order received until the order is accepted by the Seller in writing on its Order Acknowledgment Form at which time a contract will be formed between the Seller and the Buyer ('the Contract'). The Seller may execute orders received from the Buyer by telephone, e-mail or facsimile message but no liability in respect thereof shall attach to the Seller until such orders are confirmed in writing by the Buyer and accepted by the Seller in writing on its Order Acknowledgment Form.

(c) A contract may only be cancelled or varied with the Seller's consent and the giving of this consent shall not in any way prejudice the Seller's right to recover from the Buyer full compensation for any loss or expense arising from such cancellation or variation.

(d) These conditions along with the Special Conditions constitute the Contract for the supply of Goods referred to in the Special Conditions. No variation of or addition to such Contract shall be binding unless expressly agreed or confirmed in writing on the Seller's behalf by a Director or other duly authorised officer of the Seller.

3. Prices

(a) Unless otherwise stated in the Special Conditions prices for the Goods are the Seller's ex works prices and do not include sales taxes; insurance; the cost of loading, unloading and installation; and any special packing or alterations to the order required by the Buyer and agreed to by the Seller.

(b) The Seller shall have the right at any time to revise prices to take account of increase in costs including (without limitation) costs of labour, materials, carriage or overheads.

(c) The Seller reserves the right, to invoice the Buyer for Goods delivered in instalments after such instalment has been delivered, and the provisions of these terms and conditions shall apply in full to such invoices as if such instalment was a separate contract.

4. Early Termination and Repayment of Discount Clause

In consideration of the Client's commitment to a three (3) year term, the Provider has applied a ten percent (10%) discount to the standard pricing for the duration of this Agreement. If the Client terminates this Agreement before the completion of the three-year term for any reason other than the Provider's material breach, the Client shall repay to the Provider the unearned portion of the discount received. The repayment amount shall be calculated as follows:

$(10\% \text{ of the undiscounted monthly fee}) \times (36 - \text{number of full months completed})$

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For clarity, if the Agreement is terminated after 8 months, the Client shall repay the equivalent of the 10% discount for the remaining 28 months. This amount shall be invoiced upon termination and shall be payable by the Client within thirty (30) days.

This clause is without prejudice to any other rights or remedies the Provider may have under this Agreement or applicable law.

5. Payment

(a) Payment shall be made in the currency stated in Special Conditions without deduction within thirty days from the date shown on the invoice.

(b) Failure by the Buyer to pay in accordance with the provisions of this Clause shall entitle the Seller without prejudice to its rights to damages, to suspend any outstanding deliveries or to cancel the Contract.

In addition to the Seller's rights under sub-clause (b) the Seller shall be entitled to charge storage fees, statutory interest at 8% plus the Bank of England base rate and or compensation in accordance with the provisions of the Commercial Debts (Late Payment of Interest) Act 1998 on any sums outstanding and due for payment from time to time.

(c) Payments by letter of credit shall only be made with the Seller's written consent and if such consent is given all costs including bank charges shall be for the account of the Buyer and all letters of credit shall be: -

- (i) in favour of the Seller;
- (ii) consistent with the provisions of these terms and conditions;
- (iii) in sufficient amounts and for the period necessary to meet with all payment obligations hereunder;
- (iv) irrevocable, transferable and divisible; and
- (v) issued or confirmed by a bank in London acceptable to the Seller within fifteen days after the date of the Contract.

6. Inspection and Testing

The Goods will be inspected and tested by the Seller in accordance with the Seller's normal routines for the Goods concerned prior to dispatch, no further charge being made for such inspection and testing. Any further tests required

by the Buyer shall be carried out at the Buyer's cost. If the Buyer or its representative or agent wishes to attend such further testing, the Seller may proceed with such testing in the Buyer's absence if the Buyer or its agent or servant fails to attend at the appointed time and place.

7. Delivery and Passing of risk

(a) Risk in the Goods passes to the Buyer on delivery ex works.

(b) The Seller will use all reasonable efforts to deliver the Goods in accordance with times specified in the Special Conditions but failure to comply with such times shall not constitute a breach of this Agreement.

(c) The Seller shall pack Goods suitably for transportation to such destination as shall be designated in the Special Conditions and shall if requested by the Buyer arrange for the freight and insurance to such destination. In arranging freight and insurance to the point of the destination to the Seller shall be acting as the Buyer's agents and the Buyer hereby appoints the Seller for that purpose.

8. Title

(a) Notwithstanding delivery to the Buyer legal and beneficial ownership in the Goods shall remain with the Seller, including all goods and items made therefrom whether by incorporating the Goods or affixing the Goods to other goods or equipment, until the Buyer has paid the price (whether or not due, invoiced or ascertained at the date of delivery) and any ancillary and/or local or governmental impositions payable in respect of the Goods ('the Value').

(b) Until such payment the Buyer shall take all necessary measures for the protection of the Goods including insurance thereof with an insurance company approved by the Seller for an amount at least equal to the Value of the Goods shall, unless agreed to the contrary by the Seller, be clearly marked, and stored separately, as being the property of the Seller.

(c) Notwithstanding sub-clause 7(a) the Buyer may sell Goods to a third party in the ordinary course of the Buyer's business but

- (i) only at such price as will be sufficient to ensure the Buyer receives the Value from such sale and
- (ii) the Buyer shall in every such case make it a

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condition of such sale that the property in the Goods shall not pass to the sub-purchaser until such subpurchaser has paid to the Buyer a sum at least equal to the price as charged by the Seller therefor. The Buyer holds the Goods until payment to the Seller as bailee for the Seller and the relationship of bailor and bailee is created as between the Seller and the Buyer. The Buyer shall immediately upon such sub-sale supply the Seller (if so requested) in writing the name and address of the sub-purchaser and the date and contract price of each delivery. The Seller shall be entitled to inform the sub-purchaser of its interest in the Goods and the proceeds of sale thereof. The proceeds of sub-sale of any Goods in which the Seller has retained ownership shall be received by the Buyer in trust for the Seller and shall be paid into a separate bank account kept for that purpose only and the same shall be promptly paid over by the Buyer to the Seller, but nothing herein contained shall entitle the Seller to more than the Value.

(d) On receipt of notice from the Seller or on the happening of any events set out below, the Buyer's authority to sell the Seller's Goods in accordance with sub-paragraph (c) above shall be withdrawn. The Seller shall be entitled to give such notice to the Buyer at all times.

(e) If any one of the events referred to below happens, notice thereof is to be given immediately to the Seller by the Buyer. Furthermore, all Goods which are the property of the Seller and are in the possession of the Buyer shall be delivered immediately to the Seller. Without prejudice to the Buyer's duty to make delivery as aforesaid the Seller upon receiving notice from whatever source of the happening of any one of the said events shall also have the right during normal business hours to enter upon the said land or buildings of the Buyer to take possession of the Seller's Goods and the Buyer, if at any time required to do so by the Seller, shall formally assign to the Seller the benefit of any claims arising from the resale of the Seller's Goods by the Buyer and shall furnish to the Seller full particulars or any information in respect of such claims. The events referred to above are: -

(i) any notice to the Buyer that a receiver or

manager administrative receiver or administrator is to be or has been appointed;

(ii) any notice to the Buyer that a petition to wind-up the Buyer is to be or has been presented or any notice of a resolution to wind-up the Buyer (save for the purposes of a reconstruction or amalgamation);

(iii) a decision by the Buyer that the Buyer intends to make an arrangement with its creditors;

(iv) any act of bankruptcy or, if the Buyer be a person, Company or firm domiciled, incorporated or constituted outside England, any of the events equivalent to those stated above in the relevant jurisdiction.

(f) The Buyer shall not save as above create or allow to be created any right in the Goods in favour of any third party. If the Buyer breaches any of the provisions of this sub-paragraph their Value shall immediately and notwithstanding any contractual term to the contrary become payable.

(g) Until the payment specified in sub-clause (a) hereof the Buyer will not save as permitted in sub-clause (c) hereof dispose the item or items in question but will store the same taking the safeguards specified in sub-clause (b) hereof.

9. Notification of Loss or Damage

(a) The Buyer shall examine the Goods on arrival at the Buyer's premises for any obvious damage or shortage and any claim that the Goods are damaged or have been short delivered must be communicated in writing to the Seller within 3 days of arrival at the Buyer's premises. Non-delivery must be reported to the Seller within 3 days of the expected date of receipt.

(b) If the Buyer fails to give notice in accordance with this clause, the Buyer shall be bound to pay for, and shall lose any right to make a claim, in respect of such non-delivery, short delivery or loss or damage covered by this clause. If notice is given, the Buyer shall not be entitled to reject the Goods until the Seller has been given a reasonable opportunity to inspect them and, if required, to remedy the problem within a reasonable period and in any event shall not be entitled to reject the Goods if they cannot be returned to the Seller in their original condition.

10. Force Majeure

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(a) Either party shall be under no liability for any delay or failure to perform in the event that the manufacture, supply or delivery of the Goods is prevented or delayed by any act or circumstances beyond either party's reasonable control including but not limited to Act of God, legislation, war, fire, drought, failure of power supply, lock-out, strike or other action taken by employees in contemplation or furtherance of a trade dispute or owing to any inability to procure materials required for their performance of the contract.

(b) The Seller shall notify the Buyer of any circumstances arising under (a) above and if such circumstance prevails for more than 2 months then either party shall have the option by giving notice in writing to bring the contract to an end.

11. Specifications

Published specifications, drawings, descriptions, photographs, measurements or capacities are approximate only and shall not form part of the Contract. The Seller will endeavor to ensure that the Goods comply with any specification of the Goods at any time without reference to the Buyer. Any such specifications, drawings, descriptions, photographs or measurements are confidential to the Seller and must not be disclosed to any third party.

12. Warranty

(a) The Seller warrants that Goods which are manufactured or supplied by the Seller shall be free from defects in material and workmanship for a period of 12 months from the date of delivery.

(b) The warranty is based upon the buyer's liability in respect of maintenance and testing being complied with. For the purpose of this clause the guidance shall be that offered in the Sellers handbook. Parts used in the adherence to periodic maintenance and repair shall be the Sellers approved Parts or a completely equivalent part. The Seller shall not be liable for any damage caused by the use of inferior or incorrectly specified parts.

(c) The Seller reserves the right to require that all faulty Goods be returned to the Seller. Warranty claims will only be accepted on goods returned to The Seller. Where possible, the buyer must return goods fully packaged with all parts complete during the warranty period for said

items subject to terms and conditions. Warranty claims will not be accepted for goods that have been repaired by The Buyer or end user without prior consent in writing from The Seller. In that event the Seller shall refund the cost of carriage by normal means on returned Goods and the repaired or replacement Goods will be delivered free of charge by the Seller to the location of faulty goods except in cases where there is evidence of incorrect usage, maintenance or repair. In this event the seller will notify the claimant of the contribution (up to and including 100% at the Sellers discretion) required to rectify the problem. In this instance carriage will be charged at cost. Parts and Labour will be charged at the current rates published in the Sellers Price List. Where Goods are repaired or replaced under this Condition they will be considered as having been delivered at the same time as the original Goods. That is the date for warranty will be limited to the original date specified.

(d) In the event of a charge being made against clause ©. The seller will advise the claimant within 48 hours of receipt of the goods. The seller will provide a quotation for the repair of the goods and await the authorisation of the claimant prior to making any repairs (such authorisation to be received in writing).

(e) The Seller's sole obligation under this clause shall be at its option to repair or replace the Goods or any part thereof. The Seller's liability under this clause shall be in lieu of any warranty or condition express or implied, whether by statute or otherwise, including, but without limitation, any implied warranties as to merchantable quality or fitness for purpose

(f) In respect of Goods not manufactured by the Seller, the Seller shall assign for the benefit of the Buyer such rights (including guarantee or warranty rights) as the Seller has against such manufacturer and which it is able to assign but shall not be liable for such Goods beyond this sub-clause.

13. Tariff Payment

(a) Responsibility for Tariffs: The Buyer shall be solely responsible for the payment of all tariffs, duties, taxes, fees, or other charges imposed by any governmental authority (including but not

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limited to customs authorities) in connection with the importation or shipment of the goods under this Agreement.

(b) Notification of Tariffs: If the Seller becomes aware of any applicable tariffs or duties prior to shipment, the Seller shall promptly notify the Buyer of the estimated amount. However, the final determination and payment of such tariffs remain the Buyer's obligation.

(c) Reimbursement for Seller-Paid Tariffs (if applicable): If the Seller is required to advance any tariff payments on behalf of the Buyer, the Buyer shall reimburse the Seller within seven days of receipt of an invoice with supporting documentation.

(d) Changes in Tariff Rates: The Buyer acknowledges that tariff rates may change between the date of this Agreement and the date of import. Any such changes shall not affect the Buyer's obligation to pay the applicable tariffs.

(e) The Buyer agrees to indemnify and hold the Seller harmless from any claims, penalties, or costs (including legal fees) arising from the Buyer's failure to pay required tariffs or duties

14. Limitation of Liability

The Seller shall be liable for: -

- (i) death or personal injury arising from the Seller's proven negligence;
- (ii) the repair or replacement of Goods in accordance with the obligations contained in clause 11 above; and
- (iii) any breach of Section 12 of the Sale of Goods Act 1979.

Both parties hereby expressly exclude and shall not be responsible for any other loss damage or liability arising out of the Contract whether direct or indirect or consequential and whether or not caused by the Seller's negligence including but not limited to loss or profits or other economic loss. The Buyer shall indemnify the Seller indemnified in respect of any direct loss or damage caused to the Goods by the Buyer.

The Customer's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance of this agreement shall be limited to the price paid

for the Services during the six months preceding the date on which the claim arose.

15. Patents

The Seller shall fully indemnify the Buyer against any action, claim, demand, costs, charges and expenses arising from or incurred by reason of, any infringement of any patent, registered design, trade mark or trade name protected in the United Kingdom by the use or sale of the Goods and against all costs and damages which the Buyer may incur in any action for such infringement or for which the Buyer may become liable in any such action. Provided always that this indemnity shall not apply to any infringement which is due to the Seller having followed a design or instruction furnished by the Buyer or to the use of the Goods in manner or for a purpose not reasonably inferred by the Seller or disclosed to the Seller prior to the making of the Contract. If any claim is made or action brought against the Buyer arising out the matters referred to in this Clause the Seller must be promptly notified thereof and may at his own expense and option either modify the Goods so as to render their continued permissible or conduct all negotiations for the settlement of the claim and any litigation that may arise there from. The Buyer shall not unless and until the Seller shall have failed to take over the conduct of the negotiation or litigation make any admission which might be prejudice thereto. The Buyer shall at the request of the Seller afford all available assistance for any such purpose and shall be repaid any expenses incurred in so doing. The Buyer on his part warrants that any design or instructions furnished or given by him shall not be such as will cause the Seller to infringe any letters patent registered design trademark or trade name in the performance of the Contract.

16. Access

Where the Seller is to carry out work or operations upon the Buyer's premises or other premises at the direction of the Buyer then the Buyer must ensure that the premises and any machinery involved and all other arrangements affecting the work or operations are ready by the time scheduled for the Seller to enter upon the premises to commence such work or operations

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and the Buyer shall ensure that there will be no delay to the works or operations caused directly or indirectly by the premises or machinery or arrangements or the state and condition thereof for which the Seller is not responsible.

17. Confidentiality

Any information which either party discloses relating to the Goods which is not in the public domain at the time of disclosure shall be confidential and shall not be disclosed to any third party or used by the Buyer to enable the Buyer to manufacture the Goods or use the same to develop the Buyer's own products. Notwithstanding the above, the obligations of confidentiality shall be for the term of the agreement and shall survive for a period of 2 years after expiry or termination of the agreement

18. Health and Safety at work etc. Act 1974

The Buyer undertakes to ensure that in relation to any Goods all of the relevant provision of the Health and Safety at work etc. Act 1974 are complied with. In particular the Buyer undertakes to ensure that any labels or instructions as to the use or storage of any Goods shall be clearly displayed and followed and that adequate information is passed to all persons concerned about the conditions necessary for the safe use and storage of such Goods.

19. WEEE Regulations 2013

The buyer is responsible for the safe disposal of equipment once it reaches end of life, under the WEEE Regulations 2013.

20. Notices

All notices required to be served by one party upon the other may be served on the other at its address set out in the Special Conditions. All such

notices may be served by first class pre-paid letter and (in the absence or proof of earlier receipt) shall be deemed to be served in the case of an inland letter two days in the case or an airmail letter five days after proof of dispatch or posting.

21. Waiver and Severance

(a) Any indulgence granted by the Seller to the Buyer and any failure by the Seller to insist upon strict performance of these terms and conditions shall not be deemed a waiver of any of the Seller's rights or remedies nor be deemed a waiver of any subsequent default by the Buyer.

(b) The invalidity in whole or in part of any clause in these terms and conditions shall not affect the validity of the remainder of such clause or these terms and conditions.

22. Assignment

The Agreement is not assignable by either party without the written consent of the other party and is between the Seller and the Buyer as principles

23. Governing Law

The interpretation and application of the Agreement shall be in accordance with the English Law and both parties hereby agree to submit to the non-exclusive jurisdiction of the English Courts.

24. Termination

Notwithstanding anything to the contrary, the Buyer shall be entitled to terminate this agreement without assigning any reason whatsoever, by serving upon a prior written notice of ninety (90) days.

Either party shall be entitled to terminate this contract in the event of a material breach and such breach is not cured within thirty (30) days.

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