IRIS-DOC-013

Business to business – Terms and conditions for supply of goods and services

The Buyer's attention is particularly drawn to Clause 14

1. Definitions

Seller

IRIS Emissions Services Limited of:

Registered Address 28-29 Maxwell Road, Woodston, Peterborough, PE2 7JE

Trading Address 28-29 Maxwell Road, Woodston, Peterborough, PE2 7JE

Buyer	the person who buys or agrees to buy the Goods/and or Services from the Seller.
Conditions	the terms and conditions of sale as set out in this document and any special terms and conditions agreed in writing by the Seller.
Goods	the items which the Buyer agrees to buy from the Seller as set out in the Order.
Price	the price for the Goods, excluding VAT and any carriage, packaging and insurance costs.
Force Majeure Event	has the meaning set out in clause 16.
Intellectual Property Rights	patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Order	the Buyer's order for the supply of Goods and/or Services, as set out [the Buyer's purchase order form OR overleaf OR the Buyer's written acceptance of the Seller's quotation OR in the Buyer's purchase order form, or the Buyer's written acceptance of the Seller's quotation, or overleaf, as the case may be].
Services	the services supplied by the Seller to the Buyer as set out in the Order.
Seller Materials	has the meaning set out in clause 12.1.6.

2. **Conditions**

2.1 These Conditions shall form the basis of the contract between the Seller and the Buyer in relation to the sale of Goods and/or Services, to the exclusion of all other terms and conditions including the Buyer's standard conditions of purchase or any other conditions which the Buyer may purport to apply under any purchase order or confirmation of order or any other document.

2.2 All orders for Goods and/or Services shall be deemed to be an offer by the Buyer to purchase Goods and/or Services from the Seller pursuant to these Conditions.

2.3 Acceptance of delivery of the Goods or commencement of the Services shall be deemed to be conclusive evidence of the Buyer's acceptance of these Conditions.

2.4 These Conditions may not be varied except by the written agreement of a director of the Seller.

2.5 These Conditions represent the whole of the agreement between the Seller and the Buyer. They supersede any other conditions previously issued.

3. **Price**

The Price shall be the price quoted by the Seller.

4. **Payment and Interest**

4.1 Payment of the Price and VAT shall be due within [30] days of the date of the Seller's invoice.

4.2 At the discretion of the Seller, interest on overdue invoices shall accrue from the date when payment becomes due calculated on a daily basis until the date of payment at the rate of [5%] per annum above the Bank of England base rate from time to time in force. Such interest shall accrue after as well as before any judgment.

4.3 The Buyer shall pay all accounts in full and not exercise any rights of set-off or counter-claim against invoices submitted by the Seller.

5. **Goods**

5.1 The Goods are described in the Order.

5.2 The Seller reserves the right to amend or change the specification of the Goods if required by any applicable statutory or regulatory requirements.

6. **Warranties**

6.1 The Seller warrants that for a period of 12 months commencing on the earlier of either the date of delivery of the Goods, or the commencement of the Services (Warranty Period), the Goods and/or Services shall:

6.1.1 conform with their description;

6.1.2 be of satisfactory quality with the meaning of the Sale of Goods Act 1979;

6.1.3 be fit for any purpose held out by the Seller; and

6.1.4 be carried out in accordance with the Supply of Goods and Services Act 1982.

7. **Delivery of Goods**

7.1 Delivery of the Goods shall be made to the Buyer's address. The Buyer shall make all arrangements necessary to take delivery of the Goods on the day notified by the Seller for delivery.

7.2 The Seller undertakes to use its reasonable endeavours to despatch the Goods on an agreed delivery date, but does not guarantee to do so. Time of delivery shall not be of the essence of the contract.

7.3 The Seller shall not be liable to the Buyer for any loss or damage whether arising directly or indirectly from the late delivery or short delivery of the Goods. If short delivery does take place, the Buyer may not reject the Goods but shall accept the Goods delivered as part performance of the contract, and a pro-rata adjustment to the Price shall be made.

7.4 If the Buyer fails to take delivery of the Goods on the agreed delivery date or, if no specific delivery date has been agreed, when the Goods are ready for despatch, the Seller shall be entitled to store and insure the Goods and to charge the Buyer the reasonable costs of so doing.

8. **Acceptance of the Goods**

8.1 The Buyer shall be deemed to have accepted the Goods [*insert number*] days after delivery to the Buyer.

8.2 The Buyer shall carry out a thorough inspection of the Goods within [*insert number*] days and give notice in writing to the seller after discovering that some or all of the goods do not comply with the Warranty above, the Buyer must return the Goods to the Seller at the Buyer's cost and the Seller shall, at its option, repair or replace any Goods that are defective, or refund the price of such defective Goods.

8.3 Where the Buyer has accepted, or has been deemed to have accepted, the Goods the Buyer shall not be entitled to reject Goods which are not in accordance with the contract.

9. Title and risk

9.1 Risk shall pass on delivery of the Goods to the Buyer's address.

9.2 Notwithstanding the earlier passing of risk, title in the Goods shall remain with the Seller and shall not pass to the Buyer until the amount due under the invoice for them (including interest and costs) has been paid in full.

9.3 Until title passes the Buyer shall hold the Goods as bailee for the Seller and shall store or mark them so that they can at all times be identified as the property of the Seller.

9.4 The Seller may at any time before title passes and without any liability to the Buyer:

9.4.1 repossess and dismantle and use or sell all or any of the Goods and by doing so terminate the Buyer's right to use, sell or otherwise deal in them; and

9.4.2 for that purpose (or determining what if any Goods are held by the Buyer and inspecting them) enter any premises of or occupied by the Buyer.

9.5 The Seller may maintain an action for the price of any Goods notwithstanding that title in them has not passed to the Buyer.

10. **Carriage of Goods**

Carriage will be chargeable on all sales where items are not hand carried for fitting during service.

11. **Supply of Services**

11.1 The Seller shall provide the Services to the Buyer.

11.2 The Seller shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

11.3 The Seller shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Seller shall notify the Buyer in any such event.

12. **Buyer's obligations**

12.1 The Buyer shall:

12.1.1 Ensure that the terms of the Order are complete and accurate;

12.1.2 Co-operate with the Seller in all matters relating to the Services;

12.1.3 Provide the Seller, its employees, agents, consultants and subcontractors, with safe access to the Buyer's premises as reasonably required by the Seller to provide the Services;

12.1.4 Provide the Seller with such information and materials as the Seller may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;

12.1.5 Obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and

12.1.6 keep and maintain all materials, equipment, documents and other property of the Seller (Seller Materials) at the Buyer's premises in safe custody at its own risk, maintain the Seller Materials in good condition until returned to the Seller, and not dispose of or use the Seller Materials other than in accordance with the Seller's written instructions or authorisation.

12.2 If the Seller's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Buyer or failure by the Buyer to perform any relevant obligation, including safe access of working areas:

12.2.1 the Seller shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Buyer remedies the Buyer Default, and to rely on the Buyer Default to relieve it from the performance of any of its obligations to the extent the Buyer Default prevents or delays the Seller's performance of any of its obligations;

12.2.2 the Seller shall not be liable for any costs or losses sustained or incurred by the Buyer arising directly or indirectly from the Seller's failure or delay to perform any of its obligations as set out in this clause 12.2; and

12.2.3 The Buyer shall reimburse the Seller on written demand for any costs or losses sustained or incurred by the Seller arising directly or indirectly from the Buyer Default.

13. **Intellectual Property Rights**

13.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Seller.

13.2 The Buyer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Buyer's use of any such Intellectual Property Rights is conditional on the Seller obtaining a written licence from the relevant licensor on such terms as will entitle the Seller to license such rights to the Buyer.

13.3 All Seller Materials are the exclusive property of the Seller.

14. **Limitation of Liability: THE BUYER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

14.1 Nothing in these Conditions shall limit or exclude the Seller's liability for:

14.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

14.1.2 fraud or fraudulent misrepresentation;

14.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);

14.1.4 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or

14.1.5 defective products under the Consumer Protection Act 1987.

14.2 Subject to clause 14.1:

14.2.1 The Seller shall under no circumstances whatever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and

14.2.2 the Seller's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the value of the contract.

14.3 After the Warranty Period, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

14.4 This clause 14 shall survive termination of the Contract.

15. **Termination**

15.1 Without limiting its other rights or remedies either party may terminate the Contract by giving the other party not less than 6 months' written notice.

15.2 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

15.2.1 the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing to do so;

15.2.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or [(being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or being an individual is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply];

15.2.3 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors [other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party];

15.2.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;

15.2.5 The other party (being an individual) is the subject of a bankruptcy petition or order;

15.2.6 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within [14] days;

15.2.7 An application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);

15.2.8 The holder of a qualifying charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

15.2.9 A person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

15.2.10 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.2.2 to clause 15.2.9 (inclusive);

15.2.11 The other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;

15.2.12 the other party's financial position deteriorates to such an extent that in the Seller's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or

15.2.13 The other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

15.3 Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under this Contract on the due date for payment.

15.4 Without limiting its other rights or remedies, the Seller may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Buyer and the Seller if the Buyer fails to pay any amount due under this Contract on the due date for payment, the Buyer becomes subject to any of the events listed in clause 15.2.2 to clause 15.2.13, or the Seller reasonably believes that the Buyer is about to become subject to any of them.

15.5 On termination of the Contract for any reason:

15.5.1 the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Seller shall submit an invoice, which shall be payable by the Buyer immediately on receipt;

15.5.2 The Buyer shall return all of the Seller Materials and any Deliverables which have not been fully paid for. If the Buyer fails to do so, then the Seller may enter the Buyer's premises and take possession of them. Until they have been returned, the Buyer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;

15.5.3 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

15.5.4 Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

16. **Force Majeure**

16.1 For the purposes of this Contract, Force Majeure Event means an event beyond the reasonable control of the Seller including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Seller or any other party), failure of a utility service or transport network, act of God, war, terrorism, riot, civil commotion, interference by civil of military authorities, national or international calamity, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, earthquake, epidemic or similar events, or default of suppliers or subcontractors.

16.2 The Seller shall not be liable to the Buyer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

17. **General**

17.1 Notices.

17.1.1 Any notice or other communication given to a party under or in connection with this Contract shall be in writing, addressed to that party at its registered office or its principal place of business or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, or e-mail.

17.1.2 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action

17.2 Waiver. A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

17.3 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

17.4 Third parties. A person who is not a party to the Contract shall not have any rights to enforce its terms.

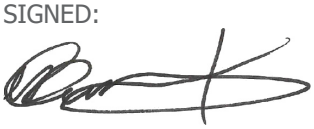
17.5 This Contract contains the entire agreement and understanding of the parties relating to the subject matter of this Contract and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between the parties, whether written or oral.

17.6 Variation. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by the Seller.

17.7 Governing law. This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

17.8 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

SIGNED:



Steven Curtis Director For and on behalf of the Seller

SIGNED:

…… *(On behalf of Customer)*