

## General Terms and Conditions of Sale

### **1 Formation**

- 1.1 Contract is confirmed on execution of this document by the customer and endorsed by INFICON.
- 1.2 No verbal representation made by any party shall deem to be incorporated into this legal contract unless specifically agreed to by both parties in writing.
- 1.3 Invoice, letter of confirmation and confirmation of order shall form part of this contract and shall be attached hereto duly endorsed by both parties.
- 1.4 If any one or more of the provisions of these Terms or any part or parts thereof shall be declared or adjudged to be invalid or unenforceable under any applicable law, such illegality, invalidity or unenforceability shall not vitiate the remainder of these Terms and the illegal, invalid or unenforceable provision shall be replaced by a new provision the content of which shall be as close to the legal and economic effect of the replaced provision as possible.

### **2 Scope Of Supply And Services**

The scope of supply and services provided shall be as specified in the order confirmation and appendices attached hereto. Over and above what is circumscribed by order confirmation and appendices attached the Buyer shall be liable for additional payments in accordance with INFICON's schedule of prices.

### **3 Technical Information**

Sales brochures, catalogues and any technical documents do not form part of this contract unless specifically stated in the order confirmation to be so incorporated into this contract.

### **4 Confidentiality**

Each party shall keep confidential the know-how manufacturing and business secrets as well as any other proprietary information received from the other party to the contract and shall neither directly nor indirectly disclose the same to any third party whomsoever nor publish them in any manner whatsoever nor use them for any other purpose, in particular but without limitation for the reproduction or replication of machines, systems, companies and parts thereof.

### **5 Prices**

Prices quoted are on an ex-works basis excluding Goods & Services Tax and any other taxes payable thereon. If packaging is required additional payment shall be added to the price quoted. Additional payment will depend on the kind of packaging required.

### **6 Terms Of Payment**

- 6.1 Payments have to be effected in accordance with the confirmation of order or invoice as the case may be. Payment will be deemed to be made when the total price agreed on has been paid to INFICON.
  - 6.2 No interest will be reimbursed for advance payments.
  - 6.3 Any dates agreed for payment shall remain in full effect even where through no fault of INFICON delays arise in the performance of the contract. The late delivery of minor components the absence of which does not restrict the use of the goods or any further work within the scope of INFICON's warranty obligations do not affect the time fixed for payment.  
This shall not apply in cases where undisputed or legally established counterclaims of the customer exist.
  - 6.4 If INFICON does not receive payment by the date stipulated interest shall thereafter accrue on the sum due and owing and shall be charged immediately to the customer at the current base lending rate in the customer's domicile and such rate shall not be less than 5% per annum.
  - 6.5 The retention of or deduction from payments because of complains, disputes or claims on the part of the customer which have not been expressly agreed by INFICON is inadmissible. The customer may only set off possible counterclaims against payments due under this contract where INFICON has expressly agreed to the same in writing. This shall not apply in cases where undisputed or legally established counterclaims of the customer exist.
- ### **7 Reservation Of Title**
- 7.1 INFICON shall remain the owner of all goods until having received the full payments in accordance with the contract. Even though the equipment has been delivered property does not pass until full payment has been received but risk passed upon receipt by the customer duly acknowledged by the customer.
  - 7.2 The customer shall cooperate in any measures necessary for the protection of INFICON's title. In particular upon entering into the contract it authorises INFICON to enter or notify the reservation of title in the required form in public registers, books or similar records, all in accordance with relevant national laws, and to fulfill all corresponding formalities, at customer's cost.
  - 7.3 During the period of the reservation of title, the customer shall, at its own cost, maintain the goods and insure them for the benefit of INFICON against theft, breakdown, fire, water and other risks. It shall further take all measures to ensure that INFICON's title is in no way prejudiced. In this regard INFICON is entitled to make regular inspection of the equipment in question and to request for production of Insurance Policy purchased covering the equipment against loss, fire, damage and theft, for the purpose of inspection.

### **8 Terms Of Delivery**

- 8.1 The term of delivery shall start as soon as the contract is entered into, the scope of supply and the specifications are defined, all relevant official formalities have been completed, payments due with the order have been made and any agreed securities have been given. The term of delivery shall be deemed to be observed if by that time INFICON has sent a notice to the customer informing that the goods are ready for dispatch.
- 8.2 Compliance with the term of delivery is conditional upon customer's fulfilling its contractual obligations.
- 8.3 If the delivery is delayed due to contingencies beyond the reasonable control of INFICON, a new confirmation of order, which shall be adjusted to the new circumstances, shall be issued.

### **9 Passing Of Benefits And Risk**

- 9.1 Risk of the equipment or system shall pass to the customer when the customer takes delivery of the equipment or system ex-works subject to Clause 7 above.
- 9.2 If dispatch is delayed at the request of the customer or otherwise due to no fault of INFICON, the risk shall pass to the customer at the date originally agreed for delivery ex-works. From this date onwards the goods shall be stored and insured at the customer's expense and risk. Insurance coverage for loss, damage, theft and fire shall be purchased for and on behalf of the customer for the account of the customer. The customer shall be obliged to make payment of the premium on demand.

### **10 Inspection And Acceptance Of Goods And Services**

- 10.1 When equipment or system are delivered to the customer they are presumed to be accepted by the customer in good order and condition unless protest note is received by INFICON as to any defect or deficiency within 3 days of acceptance of equipment or system.
- 10.2 INFICON shall take the necessary action to rectify the defects or deficiency from the date of being notified by the customer. In this respect the customer shall allow INFICON's technician(s) free access to the premises where the equipment or system are stored and shall not interfere with the work of the technician(s) authorised to rectify the defect or deficiency.

### **11 Warranty, Liability For Defects**

- 11.1 Warranty period  
The period of warranty is 12 months and shall commence upon dispatch of the goods ex-works.  
  
For replaced or repaired parts, the warranty period shall run for another period of 3 months after replacement or completion of repair but no longer than the expiry of a period being twice the warranty period pursuant to the preceding clause.  
  
The warranty under this contract expires prematurely with immediate effect if the customer or third parties make inappropriate modifications or repairs or if the customer, in case of a defect, does not immediately take appropriate steps to mitigate the damage and give INFICON the possibility to make good such defect.
  - 11.2 Liability for defects in materials, design and manufacture  
INFICON shall either repair or replace defective parts or components at the discretion of INFICON and at the sole expense of INFICON. Additional costs shall be payable by the customer if the delivered equipment or system have been transported to a place other than the place of the customer resulting in additional expenses incurred by INFICON.
  - 11.3 Liability for express warranties  
Warranties shall apply only to those parts, components or other deficiencies specifically stated in INFICON's brochures or handbook whichever is applicable.
  - 11.4 Exclusion from the liability  
Warranties relate only to parts, components and deficiencies as to faulty material or design and not to matters resulting from improper use, improper maintenance by the customer and normal wear and tear. Any damage to the equipment or system whether in whole or parts as result of the fault and negligence of the customer or its authorised users shall not be the responsibility of INFICON.
  - 11.5 Exclusivity of warranty claims  
With respect to any defective material, design or workmanship as well as to any failure to fulfill express warranties, the customer shall not be entitled to any rights and claims other than those expressly stipulated in clauses 11.1 to 11.4.
  - 11.6 This warranty does not apply to components, which are not manufactured by INFICON but sold as a total package together with INFICON's equipment or system.
- ### **12 Exclusion Of Further Liability**
- In any event INFICON shall not be liable for any consequential damage of an economic nature as a result of any defects or deficiencies during the warranty period or any extended period in accordance with the mutual agreement of both parties.

### **13 Special Conditions (Rental on Loan)**

- 13.1 Where the equipment or system is on loan to the customer on a rental basis, the customer shall pay the rental rate quoted.
- 13.2 During the period of loan the legal ownership of the equipment or system remains with INFICON but risk passes to the customer.
- 13.3 The customer shall be liable to INFICON for insurance premium payable on Insurance Coverage against theft, fire and damage whilst in the premises of the customer, which insurance shall be effected by INFICON with INFICON as the beneficiary.
- 13.4 Expenses connected with the transportation of the equipment or system shall be payable by customer.
- 13.5 All expenses connected with the maintenance, repairs and the replacements of parts and components shall be for the account of customer.
- 13.6 In the event the customer exercises the discretion to negotiate to purchase the equipment or system on a loan basis, INFICON shall consider an offer to the customer on terms and conditions at the absolute discretion of INFICON. The offer made by INFICON duly accepted by the customer shall form part of this contract and all applicable terms herein shall apply to both parties.
- 13.7 Any equipment or system on loan based on agreed rental basis when by mutual agreement converted to sale warranty period shall be construed as having commenced from the date the equipment or system were delivered to the customer on loan. For avoidance of doubt the date of delivery of the equipment or system to the customer's premises shall be the commencement date for the purposes of determining the expiry of the Warranty Period.

### **14 Tax And Interest On Late Payment**

- 14.1 All payments whether on loan or sale shall be subject to Goods & Services Tax or any other taxes imposed by any government authority whether Singapore or any other country(ies) and the customer shall be liable therefor in addition to the agreed price.
- 14.2 Any payments due under this contract shall be paid on the specified dates as stated in the Tax Invoice failing which interest shall be payable commencing from the day immediately after the expiry date of payment calculated at 1% per month until full payment.

### **15 Disposal Of Unclaimed Equipment or System**

- 15.1 Equipment or system which have been redelivered to INFICON for maintenance, repair, servicing or for any other purposes shall be at the risk of the customer. In the event the customer fails to take delivery of the equipment or system after the equipment or system have been properly dealt with and notification thereof given to the customer within 100 days from the date of notification shall be disposed off by INFICON in whatever way as INFICON deems fit without having to seek consent from the customer.

### **16 Applicable Law**

- 16.1 This Agreement is governed by the Laws of Singapore and both parties agree to the exclusive jurisdiction of the Singapore Courts.



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