



# Terms and Conditions

## 1. GENERAL

All equipment and services are sold by LABWIT and are subject to the following conditions of sale unless these are modified in writing and signed by our authorised representative. The customer's acceptance of delivery of equipment or performance of services shall constitute these conditions of sale.

## 2. OTHER CONDITIONS

If the customer's order incorporates other conditions, they shall not take effect unless LABWIT expressly agree to them in writing and to be signed by our authorised representative.

## 3. PRICES

Prices quoted are firm and based on LABWIT's costs at date of quotation for freight and insurance, and on rates of customs and other duties applying at that date. Exchange rate variations may be enforced for indent products and long term contracts. Variations in such costs or duties, and any other fiscal charges introduced by any government shall be for the customer's account. Prices quoted are exclusive of Australian Goods and Services Tax, or New Zealand Goods and Services Tax. In Australia a signed sales tax declaration must be quoted by LABWIT before invoicing, or sales tax will be charged. Packing and handling charges will apply to all orders.

## 4. ACCEPTANCE OF ORDER

The customer's order will be accepted only after suitable credit arrangements have been made with LABWIT's Financial Controller.

## 5. GOODS EX-STOCK

Goods quoted ex-stock are subject to prior sale, unless it is otherwise stated in writing in the quotation.

## 6. AVAILABILITY OF GOODS ON INDENT

The delivery time for goods quoted on an indent basis is an estimate only, and is based upon our knowledge of conditions prevailing at the time the quotation is made. The delivery is subject to variation in accordance with our supplier's manufacturing program, and the availability of shipping space from the source of supply, and also to any delay through an act of God, labour dispute, strike, lockout, fire, accident, non delivery of materials or parts by other manufacturers, or any other cause or contingency beyond our control or the control of our suppliers.

## 7. TERMS OF PAYMENT

For cash based sale, the terms of payment is strictly full payment before dispatch.

Terms of payment for account based sales are strictly 30 days net from date of invoice, notwithstanding that equipment may not yet have been installed or commissioned. LABWIT may charge interest on overdue payments at overdraft rate, or at their option in accordance with statute. Invoices are issued when equipment is dispatched within Australia and New Zealand to the customer, or upon completion, of ordered services. If the customer is not ready to accept delivery, and has not indicated a delivery date, invoices will still be issued. Where a contract provides for installation and/or commissioning, additional invoices for these services will be issued after their completion, or if completion is delayed by parties other than LABWIT, LABWIT may issue additional invoices for partly completed work.

## **8. VALIDITY**

Unless otherwise specified, quotations are valid for 30 days.

## **9. RATE OF EXCHANGE**

Prices quoted are subject to exchange rate variation. Prices are based on an exchange rate nominated on the quotation form. 80% of the total price is subject to variation according to bank-selling exchange rate prevailing at the date of invoice.

## **10. WARRANTY**

a) Unless otherwise specified, equipment (other than spare parts) is warranted for 12 months from date of the invoice against defects attributable to faulty workmanship or material, fair wear and tear being excluded.

b) This warranty only covers equipment which is used correctly under recommended operating conditions and for intended applications, and (where applicable) subjected to preventative maintenance as prescribed by LABWIT.

c) This warranty only covers the cost of repairing, or at LABWIT's option, replacing faulty equipment. Cost of travel and subsistence for LABWIT service engineers, when equipment cannot be returned to LABWIT's service workshops, the cost of removal, or re-installation, or freight costs to and from service workshops will be for the customer's account.

d) If equipment is serviced by non-LABWIT staff or agencies during the warranty period without LABWIT's written authorisation, the warranty shall cease to apply.

e) Third party equipment (non LABWIT items) will only be warranted under the conditions of the supplier, and the warranty shall not exceed 12 months from date of invoice.

f) Maintenance and repair services are warranted for 30 days from completion unless otherwise specified. This warranty covers only the work actually performed and spare parts installed by a LABWIT service engineer. Except as herein otherwise provided, all conditions or warranties in respect of equipment and any services supplied in relation thereto expressed or implied,

statutory or otherwise, are hereby excluded. Under no circumstances shall LABWIT be able to pay compensation for any injury, loss or damage sustained by the customer whosoever arising; provided always however, that in respect of equipment or services sold or supplied in Australia nothing in this paragraph shall effect the rights of the customer who has acquired the equipment or services as a 'consumer' within the meaning of the Trade Practices Act 1974, or any other law of the Commonwealth, or any state or territory; and provided further that where the customer is a 'consumer' within the meaning of the said Act and the equipment (where applicable) the services to be supplied by LABWIT are respectively not of a kind ordinarily acquired for personal, domestic or household use or consumption, then the liability of LABWIT for a breach of a condition or warranty implied by the said Act (other than a condition or warranty implied by Section 69) shall be limited:

- i) In the case of equipment, to the repair of the equipment, or, at the option of LABWIT, the replacement of the equipment or the supply of equivalent equipment; or
- ii) In the case of installation commissioning or other services, to the supplying of those services again.

## **11. INSTALLATION & COMMISSIONING**

The cost of installing and/or commissioning equipment will generally be quoted separately. When a fixed price is quoted, it is understood that:

- a) The site and specified facilities (water, compressed air, power sockets, etc.) will be available and accessible continuously.
- b) Equipment will be on site in its final location and not in the store to which it may have been delivered.
- c) When LABWIT specifies that it needs the assistance of an electrician, plumber, fitter, welder, rigger or any other tradesmen or labour, such as assistance will be provided by the customer at its own cost.
- d) Materials or samples will be available to enable the equipment to be commissioned, tested and a responsible person will be present to formally accept the equipment.

If work has to be done outside normal working hours at the customer's request, an additional charge will be made based on the difference between overtime and standard rates. Prices quoted are based on labour and material costs calculated to apply when installation, commissioning, maintenance, repair or other services are required. Any additional costs arising from any delay resulting from non-compliance with sub clauses (a) to (d) above, or from any other circumstance beyond the control of LABWIT, will be charged at prevailing standard rates in addition to the price quoted.

## **12. CANCELLATION OF ORDERS**

a) Orders are firm and not subject to cancellation.

b) In exceptional cases the Managing Director may, with discretion, issue a written authorisation for the return of equipment or for cancellation.

c) Except where LABWIT is at fault, the customer will be accepting such authorisation become liable to indemnify LABWIT against all loss and expenses including the cost of return freight, return shipping to factory of origin, items purchased from third parties for inclusion in equipment or installation and all labour and engineering costs incurred by LABWIT in the execution or part execution of services and including also compensation payable to any supplier to LABWIT and loss of profit.

d) Equipment sent back to LABWIT without the written authorisation referred to in (b) above will not be accepted.

### **13. SUSPENSION OR CANCELLATION OF DELIVERY**

LABWIT reserve the right to suspend, delay or cancel the delivery of some or all of the equipment or any installation or other services or to require advance payment if:

a) The customer is insolvent or is unable to pay its debts or seeks to affect any compromise with any of its creditors or compound any of its debts.

b) Any order is made, or resolution passed, for the winding up of the customer or if the customer is placed in receivership or under official management.

c) Any judgment is given against the customer in any court of law and, if appealable, is not appealed against within the period allowed for the lodging of such an appeal, or if not subject to an appeal, remains unsatisfied for a period of 10 days.

d) The customer is in breach of any of its obligations to LABWIT. No suspension, delay or cancellation as a result of any of the foregoing events shall affect any other right which LABWIT may have against the customer in terms of the contract or otherwise.

### **14. INABILITY TO SUPPLY**

If LABWIT cannot deliver some or all of the equipment or cannot complete any installation or other services for any reason beyond its control, including but not limited to lack of instruction from the customer, stock shortage, industrial dispute or breakdown, government action, state of war, riot, civil disturbance or an Act of God, LABWIT may, in their discretion, cancel or suspend or delay its performance of the whole or any part of the contract. In the event of such cancellation or suspension LABWIT shall not be liable for any loss (including loss of profits) thereby caused. Equipment offered ex stock is subject to prior sale.

### **15. MINOR VARIATION**

All sizes, weights and other specifications given by LABWIT are approximate only. LABWIT

reserves the right to supply equipment which does not exactly correspond with what LABWIT has agreed to supply provided that any differences do not make the equipment unsuitable for the customer's declared purpose.

## **16. OWNERSHIP AND RISK**

Unless otherwise arranged:

a) Equipment remains the property of LABWIT until paid for in full and no other monies are owing to LABWIT by the customer. The customer shall not sell or deliver equipment to a third party (except for sales or deliveries in the normal course of a business carried on by the customer) without LABWIT's prior consent. By the act of selling or delivering equipment to a third party (whether or not such sale or delivery is authorised) the customer assigns the proceeds with respect to equipment to LABWIT absolutely and not by way of security. While equipment remains the property of LABWIT, the customer shall keep it clearly identified as such and separate from other equipment. If payment for equipment is overdue in whole or in part LABWIT may (without prejudice to any of its other rights) recover or re-sell equipment or any part of it, and may enter upon the customer's premises by its servants or agents for that purpose. Notwithstanding Clause 5, payment for equipment shall become due, immediately upon the commencement of any act or proceeding in which the customer's solvency is involved. If any proceeds of sale or otherwise in respect of equipment received by LABWIT exceeds the amount by which the customer is indebted to LABWIT on any account, LABWIT shall be indebted to the customer in respect of the surplus but shall not be a trustee;

b) The risk in the equipment shall pass to the customer on delivery, which, for these purposes, shall mean:

(i) The time when the truck carrying equipment arrives at the customer's site and before unloading; or

(ii) (In the case of equipment collected by the customer or its agent from a LABWIT dispatch point) the time when equipment has been loaded on the truck. In the case of equipment delivered through an agent, the agent's signature shall be evidence of delivery to the customer.

## **17. CLAIMS FOR DAMAGE OR SHORTAGE**

LABWIT shall not be liable for damage in transit or for shortages unless a claim in writing is received within 7 days of the customer's receipt of equipment.

## **18. TIME**

Time shall not be of the essence of the contract.

## **19. SPECIAL PACKING**

Should the customer's orders require abnormal packing, this will be carried out at the customer's cost.

## **20. SUB-CONTRACTORS**

LABWIT is at liberty to employ sub-contractors on all or any part of the customer's order.

## **21. INSPECTION**

Although permission may be granted for the customer's representative to visit LABWIT's offices, such permission shall not be given automatically.

## **22. NON WAIVER OR BREACH**

a) No breach by the customer of any of these terms and conditions shall be taken to have been waived or released by LABWIT unless such waiver is in writing and signed by the Managing Director.

b) No waiver by LABWIT of any breach hereunder will be deemed a waiver of any continuing or recurring breach.

## **23. HEADINGS**

Headings are for ease of reference only, and shall not be used in any way in the interpretation of the conditions of sale.

## **24. GOVERNING LAW**

These conditions of sale, for orders accepted in Australia, shall be governed and interpreted in accordance with the laws of the state of Victoria, and the courts of that state shall have jurisdiction in any matter arising; and for orders accepted in New Zealand, shall be governed and interpreted in accordance with the laws of that country and its courts shall have jurisdiction.

## **25. DEFINITIONS**

In these conditions of sales, 'equipment' means equipment and other goods sold by LABWIT to the customer and includes spare parts. 'Managing Director' means the Managing Director of LABWIT Pty Ltd. LABWIT means Labwit Scientific Pty Ltd (ABN 99 155 819 980).

## **26. EXPORT CONTROLS**

Equipment supplied is intended for use only in the country of destination. If re-exported, the laws of Australia or New Zealand and of the country of manufacture must be complied with. The customer agrees to obtain a written clearance from LABWIT before re-exporting any equipment.

