

TERMS AND CONDITIONS OF SALE AND SUPPLY – TAIWAN

1. **Interpretation**

1.1 For the purposes of these Terms and Conditions of Sale and Supply ("Conditions"): "Buyer" means the person, firm or company which places an order for purchase of Products and/or Services as identified in any such order or Proposal as the case may be. "Conditions" means these terms and conditions of sale and supply as from time to time varied by Supplier. "Contract" means the agreement between Supplier and Buyer arising as a result of Buyer's submission of an order for Supplier's Products and Supplier's written acceptance and/or, in the case of Services, an agreement between such parties for the provision of Services by Supplier, as constituted by a Proposal. Such Contract shall be deemed to incorporate and be governed by these Conditions. "Products" means goods supplied as agreed to be supplied by Supplier to Buyer under any Contract including, where applicable, any Software. "Proposal" means a proposal document signed by Supplier and Buyer describing Services to be provided to or for Buyer, subject to these Conditions. "Services" means any services which Supplier has agreed to provide to or for Buyer under any Contract, as more fully described in the relevant Proposal. "Supplier" means Spectris Taiwan Limited or any of its affiliates as named in any quotation, Contract or Proposal.

2. **Terms of Sale:** THESE CONDITIONS SHALL TAKE PRECEDENCE OVER ANY TERMS AND CONDITIONS WHICH APPEAR IN BUYER'S ORDER OR IN ANY DOCUMENTS INCORPORATED BY REFERENCE IN BUYER'S ORDER. No term or condition of Buyer's order additional to or different from these Conditions shall become part of any Contract unless explicitly agreed to in writing by Supplier. Retention by Buyer of any Products delivered by Supplier, receipt by Buyer of any Services performed by Supplier or payment by Buyer of any invoice rendered hereunder, shall be conclusively deemed acceptance of these Conditions. Supplier's failure to object to any provision contained in any communication from Buyer shall not be construed as a waiver of these Conditions nor as an acceptance of any such provision.

3. **Quotations:** Prices, specifications and delivery date referenced in Supplier's quotations are for information only and shall not be binding on Supplier until all technical requirements have been agreed and Supplier has accepted Buyer's order. Supplier's quotations terminate if Buyer does not place an order with Supplier within 60 days after the date of such quotations.

4. **Orders:** By submitting an order to Supplier, Buyer agrees to be subject to these Conditions in their entirety. All orders must be bona fide commitments showing definite prices and quantities and mutually agreed shipping dates. No order, whether or not submitted in response to a quotation by Supplier, shall be binding upon Supplier until accepted in writing by Supplier.

5. **Prices and Taxes:** The prices for Products shall be the price quoted by Supplier to Buyer, and the fee for Services shall be the fee agreed in the Proposal or, in either case, as otherwise agreed between the parties in writing. Prices and fees do not include taxes, transport charges, insurance and export and/or import charges or duties including without limitation sales, value added tax, use or excise taxes, applicable to the Products sold and or Services supplied under any Contract, which taxes and other charges may, in Supplier's discretion, be added by Supplier to the sale price and or fees or billed separately and which taxes and other charges shall be paid by Buyer unless Buyer provides Supplier with any necessary tax exemption certificate. Unless otherwise agreed in writing, Buyer shall be liable to pay Supplier's charges for transport, packaging, insurance and export and/or import clearance.

6. **Shipment and Delivery:**

6.1 Unless otherwise agreed by both parties, Supplier shall arrange for delivery of Products Free Carrier (FCA Incoterms 2010) (Amsterdam and other Western Europe Airport. Any dates quoted by Supplier for delivery of Products are approximate only and Supplier shall not be liable for any delay in delivery of Products whatsoever caused and time for delivery is not of the essence.

6.2 Supplier reserves the right to make delivery of Products by instalments and to tender a separate invoice in respect of each instalment. When delivery is to be by instalments or Supplier exercises its right to deliver by instalments or if there is delay in the delivery of any one or more instalments for whatever reason Buyer shall not be entitled to treat the Contract as a whole as repudiated.

7. **Risk and Passing of Title:** Title to, and risk of loss and damage to, the Products shall pass to Buyer on delivery in accordance with Section 6. Any claims for loss, damage or misdelivery shall be filed with the carrier and notified to Supplier within 5 days of the date of delivery. Products shall be deemed finally inspected and accepted within ten days after delivery unless notice of rejection is given to Supplier within such period. Acceptance shall constitute acknowledgement of full performance by Supplier of all obligations under the Contract.

8. **Services:**

8.1 Supplier shall provide Services in accordance with these Conditions and the terms of the relevant Proposal.

8.2 Buyer shall, upon Supplier's reasonable request and otherwise as required, provide Supplier with all necessary information and materials to enable Supplier to provide Services in accordance with the terms of any relevant Contract. Buyer will be responsible for the completeness and accuracy of all such information and materials provided, and will ensure that it is and remains entitled to provide the same to Supplier for use in connection with provision of the Services.

9. **Terms of Payment:**

9.1 Each shipment of Products shall be a separate transaction and Buyer will be invoiced on delivery. Supplier shall be entitled to invoice Buyer, in respect of Services, monthly in advance. Terms of payment shall be net thirty (30) days from date of invoice.

9.2 All amounts due under a Contract shall be paid in full by Buyer without deduction, withholding, set-off or counterclaim for any reason whatsoever, whether arising in contract, tort, breach of statutory duty or otherwise, save as may be required by law.

9.3 Supplier may, in its sole discretion, determine at any time that Buyer's financial condition requires full or partial payment in advance or the provision of security for payment by Buyer in a form satisfactory to Supplier.

9.4 If Buyer fails to make any payment when due then, without prejudice to any other rights and remedies available to Supplier, Supplier shall (at its option) be entitled: (i) to treat the Contract as repudiated by Buyer, to suspend or cancel further delivery of Products and/or the provision of Services or any part thereof under that Contract or any other Contract between them and claim damages and/or receive reasonable cancellation fees; (ii) to affirm the Contract and claim damages from Buyer; and (iii) to recover, in addition to the payment, interest on the unpaid amount (both before and after judgement) at the rate of 4% per annum above the LIBOR rate from time to time, until payment in full is made. Such interest shall be calculated daily.

10. **Products:**

10.1 Supplier may modify specifications provided the modifications do not adversely affect the performance of the Products and Buyer shall not unreasonably reject such modifications. In addition, Supplier may furnish suitable substitutes for materials unobtainable because of priorities or regulations established by government authority, or non-availability of materials from its suppliers and Buyer shall not unreasonably reject such substitutes.

10.2 All descriptions, illustrations and any other information relating to the Products contained in Supplier's catalogues, brochures, price lists, advertising material and any sales or other particulars or literature are made by way of general description, are approximate only and for the general guidance and information of Buyer. They shall not constitute warranties or representations by Supplier nor shall they form part of any Contract.

11. **Warranties:**

11.1 Supplier warrants that all Products shall be free from defects in material and workmanship under normal use for a period of one year from installation or 18 months from dispatch, whichever is earlier, and that Supplier does not warrant or make any representation of the Software (defined in Clause 13) will be uninterrupted or error free or that all program errors will be corrected. This warranty does not include any consumables such as filaments, lamps, fuses or other parts, which fail as a result of normal usage. Buyer shall be responsible for determining that the Product is suitable for Buyer's use and that such use complies with any applicable law.

11.2 Supplier warrants that it shall perform the Services substantially in accordance with the Proposal and with reasonable skill and care.

11.3 Provided that Buyer notifies Supplier in writing of any claimed defect in the Product immediately upon discovery and any such Product is returned at Buyer's risk to Supplier, transportation charges prepaid, within the period in Section 11.1 and upon examination Supplier determines to its satisfaction, after a reasonable period to inspect such Products, that such Product is defective in material or workmanship, Supplier shall, at its option, repair or replace the Products, shipment to Buyer prepaid.

11.4 Supplier shall have a reasonable time to make such repairs or to replace such Product. Any repair or replacement of Products shall not extend the period of warranty. This warranty is limited to a period in accordance with Section 11.1, without regard to whether any claimed defects were discoverable or latent on delivery.

11.5 Services which do not conform with the warranty under Section 11.2 and which are notified to Supplier within 10 days of Buyer becoming aware of the same, and in any event no later than 2 months after the date on which the Services were performed, shall, if Supplier agrees they were non-conforming, be re-performed as soon as reasonably practicable after the Supplier's receipt of notice of the non-conforming Services. If Supplier fails to rectify any deficient performance of the Services, Buyer's sole remedy shall be reimbursement of that portion of the fees attributable to the Services concerned.

11.6 Supplier shall not be liable for the breach of the warranty in respect of Products supplied if: (i) Buyer makes further use of such Products after giving the notice required in Section 11.3; (ii) the defect or failure arises from Buyer's own fault; (iii) the defect arises from any drawing, design or specification supplied by Buyer or from other materials or other property supplied by Buyer or from any parts or items that have not been completely manufactured by Supplier; (iv) the defect arises other than out of manufacture including without limitation, circumstances of accident, misuse, unforeseeable use, neglect, alteration, improper installation, improper adjustment, improper repair, or improper testing; (v) the defect arises out of the use of the Products in conjunction with products or materials not reasonably contemplated by Supplier; (vi) the failure or defect results from Buyer's unauthorised addition to or modification of, or failure to comply with Supplier's written instructions relating to, the Products or Services; and (vii) the failure or defect arises out of any breach by Buyer of its obligations to provide information to Supplier under this Agreement.

11.7 If Buyer fails to pay when due any portion of any payment due from Buyer to Supplier under a Contract or otherwise, all warranties and remedies granted under this section may, at Supplier's option, be rejected.

11.8 The foregoing warranties are exclusive and in lieu of all other warranties, terms and conditions, express or implied by statute, common law or otherwise, to the extent permitted by the applicable law, including without limitation warranties of quality or fitness for a particular purpose, a Supplier's sole and exclusive liability, and Buyer's sole and exclusive remedy, for breach of the warranties in this Section 11 shall be as set forth in subsection 11.3 and 11.5 hereof.

12. **Liability:**

12.1 Nothing in these Conditions shall exclude or limit Supplier's liability for (i) intentional acts, (ii) gross negligence, or (iii) any other liability to the extent that the same may not be excluded or limited as a matter of law.

12.2 Subject to Section 12.1, in relation to Products, Supplier's maximum aggregate liability under or in connection with the supply, non-supply or purported supply of Products under any Contract, whether arising in contract, tort or otherwise, shall in no event exceed 100% of the total amount payable by Buyer in respect of Products under that Contract.

12.3 Subject to Section 12.1, in relation to Services, Supplier's maximum aggregate liability under or in connection with the supply, non-supply or purported supply of Services under any Contract, whether arising in contract, tort or otherwise, shall in no event exceed 100% of the total amount payable by Buyer in respect of Services under that Contract and, in respect of Services continuing beyond one year, shall in no event exceed in any year 100% of the total amount payable by Buyer in respect of Services in that year.

12.4 Subject to Section 12.1, Supplier shall be under no liability to Buyer for any loss of profit, loss of income, loss of use, loss of business, loss of revenue, loss of goodwill, or for any indirect or consequential loss or damage of any kind, in each case whatsoever arising, whether such loss or damage was foreseeable or in the contemplation of the parties and whether arising in tort, contract or otherwise.

13. **Software:** Supplier shall at all times have and retain title and full ownership of all software, firmware, programming routines, and documentation relating to such software supplied by Supplier for use with the Products, and of all copies made by Buyer (collectively "Software") and grants Buyer a non-exclusive and non-transferable licence to use such Software solely for use with the Products.

14. **Intellectual Property Rights:**

14.1 Notwithstanding delivery of and the passing of title in any Products and subject to section 13 and 14.3, nothing in these Conditions or any Contract shall have the effect of granting or transferring to, or vesting in, Buyer any intellectual property rights in or to any Products and/or Services.

14.2 Buyer acknowledges and agrees that all property, copyright and other intellectual property rights in any work or tangible deliverable item arising from or created, produced or developed by Supplier under or in the course of provision of any Services (the "Works"), wherever in the world enforceable, including without limitation all right title and interest in and to the Services and all documents, data, drawings, specifications, articles, sketches, drawings, reports, inventions, improvements, modifications, discoveries, tools, scripts and other items relating thereto shall immediately upon creation or performance vest in and shall be and remain the sole

and exclusive property of Supplier and Buyer shall acquire no right, title or interest in or to the same except as expressly stated in these Conditions.

14.3 Supplier grants to Buyer a non-exclusive, non-transferable licence to use such of the Works as are necessary, and to the extent necessary, for Buyer to obtain and utilise the intended benefit of the Services.

14.4 If any claim is made against Buyer that the Products or Services infringe the patent, copyright or other rights subsisting in the Republic of China of any third party, Supplier shall indemnify Buyer against all losses, damages, costs and expenses awarded against or incurred by Buyer in connection with the claim or paid, or agreed to be paid, by Buyer in settlement of the claim provided that: (i) Supplier is given full control of any proceedings or negotiations in connection with any such claim; (ii) Buyer shall give Supplier all reasonable assistance for the purposes of any such proceedings or negotiations; (iii) except pursuant to a final award, Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of Supplier; (iv) Buyer shall do nothing which would or might vitiate any insurance policy or cover which Buyer may have in relation to such infringement and shall use its best endeavours to recover any sums due thereunder and this indemnity shall not apply to the extent that Buyer recovers any sums under any such policy or cover; (v) Supplier shall be entitled to the benefit of, and Buyer shall accordingly account to Supplier for, all damages and costs (if any) awarded in favour of Buyer which are payable by, or agreed with the consent of Buyer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and (vi) without prejudice to any duty of Buyer under the applicable law, Supplier shall be entitled to require Buyer to take such steps as Supplier may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which Supplier is liable to indemnify Buyer under this section 14.4, which steps may include (at Supplier's option) accepting from Supplier non-infringing, modified or replacement Products or Services.

14.5 Supplier shall have no obligation or liability under Section 14.4 insofar as the infringement arises from: (i) any additions or modifications made to the Products and/or Services in question, otherwise than by Supplier or with its prior written consent; (ii) any information provided by Buyer to Supplier including without limitation any specification; (iii) performance by Supplier of any work required to any Products, or performance of any Services, in compliance with Buyer's requirements or specification; (iv) a combination with or an addition to equipment not manufactured or developed by Supplier; or (v) the use of Products beyond that scope established by Supplier or approved in writing by Supplier.

14.6 Without prejudice to Section 12.1, this Section 14 states the entire liability of Supplier and the exclusive remedy of Buyer with respect to any alleged infringement of intellectual property rights belonging to a third party arising out of or in connection with the performance of this Section 14 shall be subject to the limits of liability in Sections 12.2, 12.3 and 12.4.

14.7 **Force Majeure and Export Control:** Notwithstanding anything to the contrary in these Conditions, Supplier shall not be liable to Buyer for any loss or damage which may be suffered by Buyer as a direct or indirect result of the supply of Products or Services being prevented, delayed or rendered uneconomic by reason of circumstances or events beyond Supplier's reasonable control. If due to such circumstances or events Supplier has insufficient stocks to meet all its commitments Supplier may apportion available stocks between its customers at its sole discretion. Buyer understands that where Supplier's obligations under the Contract to supply any items or services are subject to governmental export control laws and regulations, the performance of this Contract and Buyer's use or export of any item delivered by Supplier shall be conditional upon the grant of all necessary permits or licences. Buyer shall provide all information and documentation, including where necessary end user certification, not in Supplier's possession and required by the relevant application procedure to enable Supplier to make the necessary applications for permits or licences required for deliveries to Buyer. Supplier shall be relieved from its obligations to Buyer to supply any Products or parts or to render any Services to the extent that applications for permits or licences for the same are refused by a relevant governmental authority. To the fullest extent permitted by law, Buyer shall have no right to claim compensation for damages, loss of business or otherwise arising from such a refusal.

14.8 **Confidential Information:** Each party undertakes to keep confidential, not use for its own purposes and not without the prior written consent of the other party disclose to any third party, any information of a confidential nature belonging or relating to the other party which may become known to it unless such information is or becomes public knowledge (other than by breach of this Section) or is required to be disclosed by order of a competent authority.

14.9 **Cancellation, Rescheduling and Termination:**

14.10 Orders for Products accepted by Supplier may be cancelled or rescheduled by Buyer only with the written consent of Supplier (which consent Supplier may withhold for any reason) and Buyer shall indemnify Supplier against the cost of all labour and materials used in connection with the order so cancelled or rescheduled and against all loss, damage, cost, charges and expenses suffered or incurred by Supplier as a result of that cancellation or variation.

14.11 Contracts for Services shall commence on the commencement date identified in the relevant Proposal and, subject to earlier termination in accordance with Section 17.3 or 17.4, shall continue in force for the initial term as prescribed in such Proposal and thereafter for any renewal period (if any) set out in the Proposal and thereafter without limit of period unless or until terminated by either party in accordance with Section 17.3 or 17.4.

14.12 Without prejudice to Section 17.4, either party may terminate a Contract for Services by giving ninety days (90) written notice to the other party.

14.13 Either party may terminate a Contract for Services immediately at any time by written notice to the other party if the other party commits a material breach of the Contract for Services which is incapable of remedy or which it fails to remedy within thirty days (30) of receiving written notice requiring it to be remedied.

14.14 Upon termination or expiry of a Contract for Services, each party shall, except to the extent permitted or required to exercise or perform its continuing rights, or obligations hereunder, return to the other party all property of the other party then in its possession, custody or control and shall not retain any copies of the same.

14.15 Termination of any Contract in accordance with these Conditions shall not affect the accrued rights or liabilities of the parties at the date of termination.

14.16 **Insolvency of Buyer:** If: (i) Buyer becomes insolvent, has a receiver, administrative receiver, administrator or manager appointed of the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt or an order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction) or carries out or undergoes any analogous act or proceedings under an applicable foreign law; or (ii) Buyer ceases, or threatens to cease to carry on business then, without prejudice to any other right or remedy available to Supplier, Supplier may treat any Contract as repudiated and may, without any further supply of Products and/or Services without any liability to Buyer and if any Products and/or Services have been supplied but not paid for, the price or fees shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

15. **General:**

15.1 These Conditions and any Contract shall be governed by the laws of the Republic of China. Claims or disputes arising out of or in connection with these Conditions or any Contract shall be referred to amicable negotiation between Supplier and Buyer. No party may commence any court proceedings arising out of any dispute in relation to these Conditions or any Contract until it has attempted to settle the dispute by amicable negotiation and either the negotiation has terminated or the other party has failed to participate in the negotiation. In the event that any party resorts to litigation, each party irrevocably agrees to submit to the exclusive jurisdiction of the Taipei District Court over any claim or dispute arising out of or in connection with these Conditions or any Contract but Supplier shall be entitled to bring a claim against Buyer in any court of competent jurisdiction. Nothing in this Section 15.1 shall prevent any party to the Contract from pursuing or seeking a court of competent jurisdiction for the sole purpose of seeking a preliminary injunction or such other provisional judicial relief as it considers necessary.

15.2 Failure by Supplier to exercise or enforce any rights hereunder shall not be deemed to be a waiver of any such right nor operate so as to bear the exercise or enforcement thereof any time or times thereafter.

15.3 If any provision or part of a provision of these Conditions is or is held by any court of competent jurisdiction to be unenforceable or invalid, such unenforceability or invalidity shall not affect the enforceability of any other provision.

15.4 Buyer may not assign, transfer, novate or otherwise dispose of all or any of its rights or delegate any of its obligations thereunder, in whole or in part, without the prior written consent of Supplier.

15.5 These Conditions and the relevant Contract constitutes the entire agreement and understanding between the parties with respect to its subject matter and supersedes any prior agreement, understanding or arrangement between the parties, whether oral or written. No representation, undertaking or promise shall be taken to have been given or implied from anything said or written in negotiations between the parties prior to the date of any Contract except as expressly stated in that Contract. Buyer shall not have any remedy in respect of any untrue statement made by Supplier upon which Buyer relied in entering into a Contract (unless such untrue statement was made fraudulently or was as to a fundamental matter including a matter fundamental to Supplier's ability to perform its obligations under the Contract) and Buyer's only remedies shall be for breach of contract as provided for in these Conditions. Misrepresentations as to fundamental matters shall be subject to the terms of Section 12.

15.6 Variation to any Contract must be in writing and signed by the authorised representatives of the parties.

15.7 All notices given under these Conditions shall be sent to the address of the other party set forth in the quotation or to such other address as such party may designate from time to time by such notice. 2 days shall be regarded as properly given if sent in writing and shall be deemed to have been served on delivery if sent by hand, 2 days after despatched if sent by post, and on confirmation of transmission, if sent by facsimile.

Clauses 20 and 21 are applicable if installation services are provided for Products

20. **Installation and other Services:** In case installation of the Products or the providing of other Services is agreed upon, the following provisions shall apply and Supplier's price and planning are subject to the fulfilment of the following provisions by or at the expense of Buyer: (i) the provision of adequate, conditioned and lockable storage on or near the installation site for the Products to be supplied in such a way that the Products are protected against theft and any damage or deterioration; any item lost or damaged during the storage period shall be repaired or replaced at Buyer's cost; (ii) the timely execution and completion of the preparatory works at Buyer's sole expense and risk, in conformity with the requirements, which Supplier shall indicate to Buyer in due time; the site preparation shall be in compliance with all safety, electrical and building codes relevant to the Products and their installation and/or other Services to be performed; sufficiency of such plans and specifications, specifically including, but not limited to, the accuracy of the dimensions described therein, shall be the sole responsibility of Buyer; Supplier's personnel shall not be called upon the installation or Services site by Buyer until all preparatory works have been satisfactorily completed; (iii) the availability of the Products to be delivered prior to installation and in proper condition at the exact installation site; (iv) the timely provision free of charge of the permits, licences, rights of way, etc. of the pertinent authorities required for or in connection with the installation and/or other Services to be performed and putting into operation of the Products to be delivered; (v) the timely provision of all visa, entry-, exit-, residence-, work- or any other permits necessary for Supplier's personnel and for the import and export of tools, equipment and materials necessary for the installation works, subsequent testing and/or other Services to be performed; (vi) the availability free of charge on or near the installation or Services site of adequate and lockable rooms for Supplier's personnel (equipped with sanitary installations) and for the storage of such personnel's tools and instruments.

21. **Acceptance of Installation:** In case of installation of the Products, Supplier shall notify Buyer when the Products installed will be ready for testing and acceptance, inviting Buyer to attend Supplier's standard tests or such tests as may have been agreed upon in the Contract to demonstrate compliance with the agreed specifications and/or to inspect the installation work. If Buyer fails to attend the testing on the date notified, Supplier will commence with the tests according to Supplier's standard test procedures and these tests shall be considered performed in the presence of Buyer and acceptance shall in such case take place on the basis of the results stated in the test certificate signed by Supplier. In case Buyer rejects the Products installed it should submit to Supplier the reasons for such rejection in detail and in writing within 10 days after completion of the acceptance tests concerned. If, within Supplier's reasonable opinion, the rejection is justified, Supplier shall as a sole remedy correct the shortcomings as soon as possible and the relevant parts of the acceptance test shall be repeated within a reasonable period of time in conformity with the procedures outlined above. Upon acceptance of the Products, Buyer will sign the acceptance certificate. If within 10 days after completion of the acceptance test Supplier shall not have received the acceptance certificate signed by Buyer or a report with a justified rejection, the Products installed shall then be considered as having been accepted by Buyer. Minor defects or deviations not affecting the operational use of the Products installed shall be stated in the acceptance certificate, but shall not obstruct or suspend acceptance. Supplier undertakes to remedy such defects as soon as possible.