



Q.E.D. Environmental Systems, Inc.

Terms and conditions for the sale of  
goods and services, EMEA/APAC.

## Contents

1	Interpretation.....	2
2	Basis of Contract.....	3
3	Goods.....	4
4	Delivery.....	4
5	Quality .....	5
6	Title and risk .....	7
7	Price .....	8
8	Payment .....	9
9	Intellectual Property .....	10
10	Customer's insolvency or incapacity.....	10
11	Limitation of liability .....	12
12	Force majeure.....	13
13	General.....	13
	Supplement A – Credit policy.....	16
14	Standard payment conditions.....	16
15	Credit accounts.....	16
	Supplement B – Returns policy.....	17
16	Returns and cancellation.....	17
17	Non-returnable Goods .....	17
18	Returnable Goods.....	17
19	Cancellation and return costs.....	17
	Supplement C – Confidentiality.....	18
20	Confidentiality .....	18
	Supplement D - Anti-Corruption and Bribery Policy.....	18
21	Anti-corruption and bribery policy Statement .....	18

## **Introduction**

The purpose of the attached document is to set out the terms and conditions which will apply as and when you wish to purchase goods and services from us, Q.E.D. Environmental Systems, Inc. ("QED"). This introduction does not form part of the legal terms and conditions.

In preparing terms and conditions we have tried to make them as clear as possible and to make them reasonably balanced from a commercial point of view.

The basic terms and conditions apply to all sales by QED. QED has other terms and conditions applicable to other areas of its business such as servicing and maintenance, hire, installation, and purchases by QED. Details of such other terms are available on request.

## Q.E.D. Environmental Systems, Inc.

### Terms and conditions for the sale of goods and service

The Customer's attention is drawn in particular to the provisions of clause 11.

#### 1 Interpretation

1.1 **Definitions.** In these Conditions, the following definitions apply:

**QED:** Q.E.D. Environmental Systems, Inc. (registered in the State of Michigan, USA with company number 38-2429541.

**Business Day:** a day (other than a Saturday, Sunday, or public holiday) when banks in London are open for business.

**Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 13.7.

**Contract:** the contract between QED and the Customer for the sale and purchase of the Goods and service in accordance with these Conditions.

**Customer:** the person or firm who purchases the Goods and service from QED.

**Force Majeure Event:** has the meaning given in clause 0.

**Goods:** the goods (or any part of them) set out in the Order.

**Intellectual Property Rights:** means all patents, rights to inventions, utility models, copyright and neighboring and related rights, trademarks and service marks, business names and domain names, rights in trade dress or get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights to use and protect the confidentiality of confidential information (including know-how and trade secrets) and any 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 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 Customer's order for the Goods and service, as set out in the Customer's purchase order.

**Product Data Sheet:** the data sheet produced by QED for each item that QED supplies.

**Services:** the services, including without limitation any Deliverables, to be provided by the Supplier.

**Specification:** any express specification for the Goods and service including any related plans and drawings that is agreed in writing by the Customer and QED.

1.2 **Construction.** In these Conditions, the following rules apply:

- 1.2.1 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.2 A reference to a party includes its representatives, successors or permitted assigns.
- 1.2.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.2.4 Any phrase introduced by the terms including include or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.2.5 A reference to writing or written includes faxes and emails.

## **2 Basis of Contract**

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing save where the Contract includes other matters such as servicing and maintenance in which event the Contract shall include QED's other relevant conditions as specified by QED or as applicable in addition to these Conditions.
- 2.2 The Order constitutes an offer by the Customer to purchase the Goods and service in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable specifications are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when QED issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of QED which is not set out in the Contract. Please refer to clauses 2.1 and 2.7 concerning dealings with QED other than product sales.
- 2.5 This is not a sale by sample. Any samples, drawings, descriptive matter, or advertising produced by QED and any descriptions or illustrations contained in catalogues or brochures other than Product Data Sheets are produced for the sole purpose of giving an approximate idea of the Goods and service described in them. They shall not form part of the Contract or have any contractual force.
- 2.6 A quotation for the Goods and service given by QED shall not constitute an offer. A quotation shall only be valid for a period of one calendar month from its date of issue and QED may withdraw it at any time.
- 2.7 For dealings with QED other than product sales such as the purchase of supplies by QED, hire, servicing and maintenance, QED's relevant terms will apply. Details available from QED on request.

### **3 Goods**

- 3.1 The Goods are described in the Product Data Sheet as modified by any applicable Specification.
- 3.2 QED reserves the right to amend the specification of the Goods including the Specification (if any) if required by any applicable statutory or regulatory requirements.

### **4 Delivery**

- 4.1 QED shall issue a delivery note in relation to each delivery of the Goods which shows the date of the Order, the QED Contract number, any relevant reference number quoted by the Customer in the Order, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- 4.2 QED shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after QED notifies the Customer that the Goods are ready.
- 4.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location. If the Customer collects or arranges its own carrier for the Goods from QED's premises at 2355 Bishop Circle West, Dexter, MI USA 48130 delivery shall be completed when the Goods are handed to the Customer or its carrier (as applicable).
- 4.4 QED manufactures most of its products to order. QED will produce the Goods as soon as it is reasonably able to do so, but factors such as availability of components and existing workload when the Order is received or any unforeseen process failures can affect the timescale for delivery. Any dates quoted for delivery are therefore approximate only, and the time of delivery is not of the essence. QED shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide QED with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods or the Customer's delay in payment where payment is not received with the Order and manufacture and delivery is stated by QED to be subject to receipt of payment. For delays after the Goods have been dispatched by QED please refer to clause 4.10.
- 4.5 If QED fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. QED shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide QED with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods or the Customer's failure to pay where manufacture and delivery are stated by QED to be subject to receipt of payment.
- 4.6 If the Customer fails to accept delivery of the Goods within three Business Days of QED or its carrier attempting to deliver the Goods to the Delivery Location or of QED notifying the Customer that the Goods are ready then, except where such failure or

delay is caused by a Force Majeure Event or QED's failure to comply with its obligations under the Contract:

- 4.6.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which QED or its carrier attempted to deliver the Goods to the Delivery Location or QED notified the Customer that the Goods were ready; and
- 4.6.2 QED shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.7 If 10 Business Days after the day on which QED notified the Customer that the Goods were ready for delivery the Customer has not accepted delivery of them, QED may resell or otherwise dispose of part or all of the Goods.
- 4.8 QED may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.9 Where Goods are to be delivered to a Delivery Location outside the United States the Customer shall supply such information as shall be required to enable QED to complete any relevant documentation and satisfy any applicable export and import regulations provided that QED shall not be expected or obliged to do anything which is in contravention of such documentation or regulations.
- 4.10 QED will notify the Customer of the expected delivery date for the Goods and service (**expected delivery date**). The Customer shall notify QED in writing no later than two Business Days from the expected delivery date if it has not received the goods and service. Failure to do so may prevent QED from claiming from the carrier or under any insurance in respect of such delay.
- 4.11 On delivery, the Customer shall inspect the Goods as soon as reasonably practicable and shall notify QED in writing of any damage which has or may have been caused in transit no later than two Business Days from receipt. Failure to do so may prevent QED from claiming from the carrier or under any insurance in respect of such damage.

## 5 Quality

- 5.1 QED warrants that on delivery, and (save as set out in clause 5.4) for a period of 12 months from the date of delivery (unless another period of warranty has been agreed in writing by QED) (**warranty period**), the Goods shall:
  - 5.1.1 conform in all material respects with their description in the relevant Product Data Sheet as modified by any applicable Specification;
  - 5.1.2 be free from material defects in design, material and workmanship; and
  - 5.1.3 be fit for any purpose held out by QED in the relevant Product Data Sheet as modified by any applicable Specification.

## 5.2

Subject to clause 5.3, if:

- 5.2.1 the Customer gives notice in writing to QED within a reasonable time of discovery and in any event during the warranty period that some or all of the Goods do not comply with the warranty set out in clause 5.1;
- 5.2.2 QED is given a reasonable opportunity of examining such Goods;
- 5.2.3 the Customer (if asked to do so by QED) returns such Goods to QED's place of business at QED's cost in such manner as QED may reasonably request; and
- 5.2.4 provides such evidence of purchase or delivery such as invoice or delivery note as QED may reasonably request,

QED shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full and reimburse the Customer's reasonable carriage and insurance costs incurred in returning the Goods to QED.

## 5.3 QED shall not be liable for Goods' failure to comply with the warranty set out in clause 5.1 in any of the following events:

- 5.3.1 the Customer has not paid for Goods in full in accordance with clause 8.2;
- 5.3.2 the Customer makes any further use of such Goods after giving notice in accordance with clause 5.2;
- 5.3.3 the defect arises because the Customer failed to follow the operating manual or other oral or written instructions from QED as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- 5.3.4 repairs or alterations carried out other than by QED or its authorized agents;
- 5.3.5 the Customer opens, alters, or repairs or otherwise tampers with such Goods without the written consent of QED;
- 5.3.6 the defect arises as a result of fair wear and tear, willful damage, negligence, accidental damage or abnormal storage or working conditions;
- 5.3.7 the defect arises as a result of QED following any drawing, design or Specification supplied by the Customer; or
- 5.3.8 the Goods differ from their description in the Product Data Sheet as modified by any applicable Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements;
- 5.3.9 the Goods are damaged in transit to which clause 4.11 applies.

## 5.4 The exclusions from the 12 month period referred to in clause 5.1 are:

5.4.1 electrochemical cells and other consumables and any other items indicated by QED from time to time or specifically notified by QED to the Customer.

5.4.2 data collected and/or stored using the Goods.

As regards items referred to in clause 5.4.1 QED will use its reasonable endeavors to pass on to the Customer the benefit of such warranties as are available from the suppliers of such items to QED.

5.5 If it is found that there is no breach by QED of the warranty set out in this clause 5, QED shall be entitled to charge the Customer for any carriage administration and inspection costs incurred by QED in relation to any return or inspection of the Goods.

5.6 Except as provided in this clause 5, QED shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.

5.7 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

5.8 These Conditions shall apply to any repaired or replacement Goods supplied by QED.

5.9 The warranty period shall not be extended as a result of any repair or replacement pursuant to clause 5.

5.10 QED may from time to time offer additional warranty schemes applicable to certain of its products subject to such terms and conditions as QED may specify. Details available from QED on request.

5.11 The Customer shall not remove or obscure QED's name or branding on the Goods without QED's prior written consent. Any such action would also constitute alteration or tampering within clause 5.3.4.

5.12 Once the Contract has been made QED shall not be obliged to accept any cancellation or the return of any Goods which are not in breach of the Contract. QED may from time to time at its discretion offer a returns policy. The policy current as at the date of these Conditions is as set out in Supplement B clauses 17 to 20. The policy is subject to change or withdrawal at any time. Details available from QED on request.

## **6 Title and risk**

6.1 The risk in the Goods shall pass to the Customer on completion of delivery.

6.2 Save as set out in clause 6.3 title to the Goods shall pass to the Customer on completion of delivery.

6.3 Title to the Goods shall not pass to the Customer until QED has received payment in full (in cash or cleared funds) for:

6.3.1 the Goods; and

6.3.2 any other goods or services that QED has supplied to the Customer in respect of which payment has become due.

- 6.4 Until title to the Goods has passed to the Customer, the Customer shall:
- 6.4.1 hold the Goods on a fiduciary basis as QED's bailee;
  - 6.4.2 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as QED's property;
  - 6.4.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - 6.4.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - 6.4.5 notify QED immediately if it becomes subject to any of the events listed in clause 0; and
  - 6.4.6 give QED such information relating to the Goods as QED may require from time to time,

but the Customer may use or resell the Goods in the ordinary course of its business.

- 6.5 If before title to the Goods passes to the Customer, the Customer becomes subject to any of the events listed in clause 0, or QED reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been irrevocably incorporated into another product or resold, and without limiting any other right or remedy QED may have, QED may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## **7 Price**

- 7.1 The price of the Goods and service shall be the price set out in the Order, subject to acceptance by QED, or, if no price was quoted prior to submission of the Order by the Customer, the price set out in QED's standard published price list in force as at the date of delivery.
- 7.2 Where the value of Goods and services in the Order is below the minimum set by QED from time to time QED reserves the right to add an administration charge in respect of its costs in dealing with such Order.
- 7.3 In the event of any request by the Customer to make any change in the delivery date(s), quantities or types of Goods and service ordered, or otherwise change the Contract QED will as soon as reasonably practicable notify the Customer of any impact on the Contract including the delivery, price and payment terms. The Customer shall then promptly notify QED whether it wishes to proceed with such changes.
- 7.4 QED may, by giving notice to the Customer at any time up to ten Business Days before delivery, increase the price of the Goods and service to reflect any increase in the cost of the Goods and service that is due to:

- 7.4.1 any factor beyond QED's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labor, materials and other manufacturing costs); or
  - 7.4.2 any delay by the Customer in making payment where manufacture and delivery are stated by QED to be subject to receipt of payment.
- 7.5 Where both the Delivery Location and the Customer are in the UK the price of the Goods and service is inclusive of the costs and charges of QED's standard carriage, packaging and insurance of the Goods save where expressly specified otherwise by QED or where the Customer requests other than standard carriage, packaging and insurance which in such cases shall be invoiced to the Customer in addition to the price of the Goods and service.
- 7.6 Where the Delivery Location and/or the Customer are outside the United States the price of the Goods and service is exclusive of:
- 7.6.1 the costs and charges of carriage, packaging and insurance of the Goods which shall be invoiced to the Customer in addition to the price of the Goods and service.
  - 7.6.2 any applicable sales import export or other tax or duty which shall be paid by the Customer.

## **8 Payment**

- 8.1 QED may invoice the Customer for the Goods and service on or at any time after QED has accepted the Order in accordance with clause 2.3.
- 8.2 Unless expressly otherwise agreed in writing by QED as set out in Supplement A clauses 14 to 16 of these Conditions, payment in full must be received with the Order.
- 8.3 QED will not commence manufacturing or deliver the Goods and service until:
- 8.3.1 payment under clause 8.2 is received; or
  - 8.3.2 where QED has agreed on credit terms with the Customer but the Customer has exceeded such terms, the Customer is in compliance with such terms.
- 8.4 Where QED has agreed credit terms in writing the Customer shall pay the invoice in full and in cleared funds no later than 30 days from the date of the invoice.
- 8.5 Time of payment is of the essence.
- 8.6 Payment shall be made in cleared funds to the bank account nominated in writing by QED. Payment shall be made in the currency of the invoice. The Customer shall be

responsible for all related bank charges and currency conversion to ensure that QED receives the total amount invoiced in full.

- 8.7 If QED at its discretion agrees to accept payment by credit card such agreement may be conditional on payment of an administration charge in respect of QED's costs in receiving payment by this method.
- 8.8 If the Customer fails to make any payment due to QED under the Contract by the due date for payment (**due date**), then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above HSBC Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 8.9 As an alternative to the right stated in clause 8.8 QED reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 8.10 Where exceptionally QED may permit a Customer to try out Goods such trial shall be subject to such terms and conditions as QED may specify in addition to these Conditions. Pending acceptance of the Goods by the Customer and receipt of payment in full cleared funds by QED such Goods shall also be subject to QED's terms and conditions of hire. Details available on request.

## **9 Intellectual Property**

- 9.1 The Customer acknowledges and agrees that:
  - 9.1.1 as between QED and the Customer, all Intellectual Property Rights in the Goods and service vest and remain vested in QED; and
  - 9.1.2 to the extent that the Customer makes any changes, innovations, and/ or improvements to the Goods and service, the Customer shall assign any Intellectual Property Rights in such changes, innovations and/ or improvements to QED immediately upon creation at no additional charge to QED.
- 9.2 The Customer shall not sub-license, transfer or otherwise deal with QED's Intellectual Property Rights in the Goods and service.
- 9.3 The Customer shall not do, or omit to do, any act or thing in its use of the Goods and service that could adversely affect the validity or reputation of QED's Intellectual Property Rights in the Goods and service.

## **10 Customer's insolvency or incapacity**

- 10.1 If the Customer becomes subject to any of the events listed in clause 0, or QED reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to QED, QED may cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and QED without incurring any liability to the Customer, and all outstanding sums in respect of Goods and service delivered to the Customer shall become immediately due.

For the purposes of clause 10.1, the relevant events are:

- 10.1.1 the Customer 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) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (and/or equivalent US law), or (being an individual) is the subject of a bankruptcy petition or order, or 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 (and/or equivalent US law), or (being a partnership) has any partner to whom any of the foregoing apply;
- 10.1.2 the Customer 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;
- 10.1.3 (being a company) 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 Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- 10.1.4 a creditor or encumbrancer of the Customer 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 or a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
- 10.1.5 (being a company) an application is made to court, or an order is made, for the appointment of an administrator or a notice of intention to appoint an administrator is given or an administrator is appointed over the Customer or a floating charge holder over the Customer's assets has become entitled to appoint or has appointed an administrative receiver.
- 10.1.6 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.1.1 to clause 10.1.45 (inclusive);
- 10.1.7 the Customer suspends, threatens to suspend, ceases, or threatens to cease to carry on all or substantially the whole of its business or the Customer's financial position deteriorates to such an extent that in QED's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and
- 10.1.8 (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- 10.1.9 the Customer breaches clause 13.3.

10.2 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

## **11 Limitation of liability**

11.1 Nothing in these Conditions shall limit or exclude QED's liability for:

11.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

11.1.2 fraud or fraudulent misrepresentation.

11.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (or equivalent US law).

11.1.4 defective products under the Consumer Protection Act 1987 (or equivalent US law); or

11.1.5 any matter in respect of which it would be unlawful for QED to exclude or restrict liability.

11.2 Subject to clause 11.1:

11.2.1 QED shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any:

11.2.1.1 loss of profit; or

11.2.1.2 loss of goodwill; or

11.2.1.3 loss of business; or

11.2.1.4 loss of business opportunity; or

11.2.1.5 loss of anticipated saving; or

11.2.1.6 loss or corruption of data or information; or

11.2.1.7 special, indirect, or consequential loss

arising under or in connection with the Contract; and

11.2.2 QED's total liability to the Customer 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 price paid or payable to QED by the Customer for the Goods and service the subject of the claim.

## **12 Force majeure**

- 12.1 Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, the collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.
- 12.2 A party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event:
- 12.2.1 notify the other party of the nature and extent of such Force Majeure Event; and
  - 12.2.2 use all reasonable endeavors to remove any such causes and resume performance under this agreement as soon as feasible.
- 12.3 If any events or circumstances prevent a party from carrying out its obligations under the Contract for a continuous period of more than ten (10) Business Days, the other party may terminate this Contract immediately by giving written notice to the affected party.

## **13 General**

### **13.1 Assignment and subcontracting**

- 13.1.1 QED may at any time assign, transfer, charge, subcontract, or deal in any other manner with all or any of its rights or obligations under the Contract.
- 13.1.2 The Customer may not assign, transfer, charge, subcontract, or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of QED.

### **13.2 Notices**

- 13.2.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) 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, sent by pre-paid first class post, recorded delivery, commercial courier, fax or email.
- 13.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.2.1;

if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email by QED after satisfactory transmission or if sent by fax or email to QED on written confirmation by QED of receipt.

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

### 13.3 **Anti-bribery compliance**

The Customer shall:

- 13.3.1 comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the US Foreign Corrupt Practices Act and the UK Bribery Act 2010.
- 13.3.2 not engage in any activity, practice, or conduct which would constitute an offence under the US Foreign Corrupt Practices Act and/or the UK Bribery Act 2010 if such activity, practice, or conduct had been carried out in the US or UK.
- 13.3.3 comply with QED's anti-corruption and bribery policies (contained in Supplement C to these Conditions) as QED may update them from time to time.

### 13.4 **Severance.**

- 13.4.1 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 13.4.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable, and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

### 13.5 **Waiver.**

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

### 13.6 **Third party rights.**

A person who is not a party to the Contract shall not have any rights under or in connection with it.

### 13.7 **Variation.**

Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by QED.

### 13.8 **Governing law and jurisdiction.**

13.8.1 The Contract, 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 laws of the State of Michigan, United States.

13.8.2 Save as set out in clause 13.8.3 the parties irrevocably submit to the exclusive jurisdiction of the courts of Michigan, United States.

13.8.3 QED shall not be bound by the provisions of clause 13.8.2 and may issue proceedings in such jurisdiction as it in its absolute discretion considers appropriate.

### 13.9 **Export Control**

The Customer shall comply with export control laws of the United States and the United Kingdom. Goods sold to Customer shall not be sold, resold, exported or re-exported: (i) into any country or region embargoed by the U.S. or Customer's local country (such as, without limitation, Cuba, Iran, North Korea, Syria, and the Donetsk, Luhansk and Crimea regions of Ukraine); however, Customer is solely responsible for determining current country or region status at time of export); (ii) to any person or entity on a restricted party list published by the U.S. or Customer's local country, including but not limited to the U.S. Treasury Department's Specially Designated Nationals List, the U.S. Commerce Department's Denied Persons List, Entity List or Unverified List; (iii) to any person or entity otherwise designated by the United States government as subject to financial sanctions or prohibited from receiving U.S. exports; (iv) for any use that is otherwise prohibited under export controls; or (v) in violation of any QED policies adopted in furtherance of export control compliance, as communicated in distributor bulletins issued by QED from time to time (which QED policies include, as of the Effective Date, an embargo on Belarus and Russia). Customer represents and warrants that it is not controlled by any person or entity on a restricted parties list published by the United States government and is not controlled by a national or resident of any country or region embargoed by the United States government. Customer further agrees to notify QED of any change in ownership or control that might violate this Section 13.9.

## **Supplement A – Credit policy.**

### **14 Standard payment conditions**

- 14.1 QED's standard conditions for payment are as set out in clause 8 of these Conditions.
- 14.2 Unless otherwise agreed in writing by QED all goods and services are ordered on a pro forma basis and must be paid for in advance of manufacture and shipment.
- 14.3 For the avoidance of doubt:
  - 14.3.1 any variation of the payment provisions set out in clauses 14.1 and 14.2 above is at QED's absolute discretion; and
  - 14.3.2 any credit granted may be varied or withdrawn by QED at any time.

### **15 Credit accounts**

QED will consider credit applications from businesses subject to the following procedure:

- 15.1 QED's credit application form must be fully completed and signed by or on behalf of the applicant who is or will be QED's customer.
- 15.2 The applicant's details and required credit limit will be passed to a credit checking agency.
- 15.3 QED will decide as soon as reasonably possible as to whether to offer credit and if so the value of the credit limit. This will be advised to the applicant in writing.
- 15.4 QED's written confirmation will set out the details of the payment terms and any other applicable terms.
- 15.5 Customers who do not apply or qualify for credit will be required to pay on a pro forma basis.

## **Supplement B – Returns policy.**

### **16 Returns and cancellation.**

- 16.1 Once the Contract has been made QED shall not be obliged to accept any cancellation or the return of any Goods and services which are not in breach of the Contract. The provisions of clauses 17 to 20 are without prejudice to clause 5 of these Conditions.
- 16.2 QED recognizes that on occasion the Customer may wish to cancel or return Goods. Accordingly, QED may at its discretion offer a returns policy from time to time. The policy current as at the date of these Conditions is as set out in this Supplement B clauses 17 to 20. The policy is subject to change or withdrawal at any time. Details available from QED on request.
- 16.3 If the Customer wishes to cancel or return Goods other than for a breach of the Contract or otherwise as expressly set out in these Conditions it shall not do so without seeking QED's prior written consent which consent if granted may be subject to such conditions as QED in its absolute discretion considers appropriate in the circumstances.

### **17 Non-returnable Goods**

- 17.1 Items included in QED's current catalogue or product list are considered standard. Any other items are bespoke. Bespoke Goods are non-returnable at any time.
- 17.2 Goods cannot be returned once used or not otherwise in the condition in which they were delivered they were delivered.

### **18 Returnable Goods**

- 18.1 Where QED has given its written consent for the return of Goods under clause 17.3 such Goods must be returned unused in their original or comparable quality packaging, insured and carriage paid to QED.
- 18.2 Returned Goods will be subject to inspection by QED prior to acceptance.

### **19 Cancellation and return costs.**

Where QED has given its written consent for the cancellation return of Goods under clause 17.3 and subject to acceptance of returned Goods under clause 19.2, the following charges will apply based on the Contract price of the Goods:

- 19.1 Cancellation before production of the Goods commences 10%.
- 19.2 Cancellation during the production of the Goods 25%.
- 19.3 Cancellation after production of the Goods but before they are dispatched from QED's premises: 50%.
- 19.4 Cancellation or return of the Goods after they are dispatched from QED's premises: 50% plus carriage costs.

## **Supplement C – Confidentiality**

### **20 Confidentiality**

20.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning information obtained or created during the performance of laboratory activities, the business affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs.

20.2 Each party may disclose the other party's confidential information:

20.2.1 to its employees, officers, representatives, or advisers who need to know such information to exercise the party's rights or carry out its obligations under or in connection with this Contract. Each party shall ensure that its employees, officers, representatives, or advisers to whom it discloses the other party's confidential information comply with this Clause; and

20.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

20.3 No party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Contract.

## **Supplement D - Anti-Corruption and Bribery Policy**

### **21 Anti-corruption and bribery policy Statement**

It is our policy to conduct all our business in an honest and ethical manner. We take a zero-tolerance approach to bribery and corruption and are committed to acting professionally, fairly and with integrity in all our business dealings and relationships wherever we operate and implementing and enforcing effective systems to counter bribery.

We will uphold all laws relevant to countering bribery and corruption in all the jurisdictions in which we operate. We remain bound by the laws of the United States, including the U.S. Foreign Corrupt Practices Act, in respect of our conduct both at home and abroad.

The purpose of this policy is to:

- set out our responsibilities, and of those working for us, in observing and upholding our position on bribery and corruption; and
- provide information and guidance to those working for us on how to recognize and deal with bribery and corruption issues.

Bribery and corruption are punishable for individuals by up to ten years imprisonment and if we are found to have taken part in corruption, we could face an unlimited fine, be excluded.

from tendering for public contracts and face damage to our reputation. We, therefore, take our legal responsibilities very seriously.

We have identified that the following are particular risks for our business: entertaining clients, expenses claims and use of overseas distributors. To address those risks, we have reviewed our policies and systems of financial controls and written to all distributors to ask them to ensure that appropriate measures are in place to prevent bribery and corruption.

In this policy, the **third party** means any individual or organization you come into contact during the course of your work for us, and includes actual and potential clients, customers, suppliers, distributors, business contacts, agents, advisers, and government and public bodies, including their advisors, representatives and officials, politicians and political parties.

### **Who is covered by the policy?**

This policy applies to all individuals working at all levels and grades, including senior managers, officers, directors, employees (whether permanent, fixed-term or temporary), consultants, contractors, trainees, seconded staff, home-workers, casual workers and agency staff, volunteers, interns, agents, sponsors, or any other person associated with us, or any of our subsidiaries or their employees, wherever located (collectively referred to as workers in this policy).

### **What is bribery?**

A bribe is an inducement or reward offered, promised or provided in order to gain any commercial, contractual, regulatory or personal advantage.

#### **Examples:**

##### **Offering a bribe**

You offer a potential client tickets to a major sporting event, but only if they agree to do business with us.

This would be an offence as you are making the offer to gain a commercial and contractual advantage. We may also be found to have committed an offence because the offer has been made to obtain business for us. It may also be an offence for the potential client to accept your offer.

##### **Receiving a bribe**

A supplier gives your nephew a job, but makes it clear that in return they expect you to use your influence in our organization to ensure we continue to do business with them.

It is an offence for a supplier to make such an offer. It would be an offence for you to accept the offer as you would be doing so to gain a personal advantage.

##### **Bribing a foreign official**

You arrange for the business to pay an additional payment to a foreign official to speed up an administrative process, such as clearing our goods through customs. The offence of bribing a foreign public official has been committed as soon as the offer is made. This is because it is made to gain a business advantage for us. We may also be found to have committed an offence.

## **U.S. Foreign Corrupt Practices Act**

QED is subject to the provisions of the U.S. Foreign Corrupt Practices Act.

You shall comply with all applicable laws and regulations. You agree that you shall not act in any fashion or take any action which will render QED or its affiliates liable for a violation of any anti-corruption or anti-bribery laws worldwide, including but not limited to the U.S. Foreign Corrupt Practices Act, which prohibits the offering, giving or promising to offer or give, directly or indirectly, money or anything of value to any government official, political party or instrumentality thereof, in order to assist it or QED in obtaining or retaining business. If QED has reason to believe there may be a violation of this paragraph, QED or a designated third party shall have the right to examine, reproduce and audit any and all of your records and data. QED may immediately terminate this agreement by written notice to you if you violate this paragraph.