

**MeasurIT Technologies Ltd. Terms and Conditions of Sale**

**1. Application of Conditions**

- 1.1. These terms and conditions (the "Conditions") apply to and are incorporated into this Agreement for the sale of goods and where applicable services entered into between MeasurIT Technologies Ltd. ("MeasurIT"), Craan, Craanford, Gorey, Co. Wexford, Ireland and the purchaser (the "Customer") and prevail over any inconsistent terms or conditions contained or referred to in the Customer's purchase order or otherwise and for the avoidance of doubt the Customer's standard terms and conditions of business shall not apply.
- 1.2. The defined terms set out in the sales order acknowledgement form (the "Order Form") shall have the meaning set out in the Order Form throughout these Conditions.
- 1.3. The Customer's acceptance of the terms of the Order Form constitutes an offer by the Customer to purchase the Products and/or Project Services specified on these Conditions.
- 1.4. No offer placed by the Customer shall be accepted by MeasurIT other than by a written acknowledgement issued by MeasurIT or (if earlier) by MeasurIT starting to supply Products and/or Project Services.
- 1.5. These conditions are effective and binding as and from 17th March 2013 and are in place of all previous terms and conditions issued by the Company.

**2. Commencement and Delivery**

- 2.1. The Customer shall co-operate with MeasurIT in all matters relating to the supply of Products and Project Services and appoint the Customer Contact who shall have the authority to legally bind the Customer.
- 2.2. The Customer shall ensure that the Delivery Address is accessible by road and that MeasurIT or its delivery agent has necessary access to the Delivery Address and if MeasurIT is to carry out installation as part of the Project Services then the Customer shall ensure that the Delivery Address is manned at the appropriate time/date by appropriately qualified personnel.
- 2.3. Any dates quoted for delivery of Products and/or Project Services are approximate only and in this respect time shall not be of the essence save for in the event that MeasurIT is unable to deliver Products and/or Project Services due to fault on the part of the Customer.
- 2.4. If for any reason the Customer fails to accept delivery of any of the Products when they are ready for delivery, or MeasurIT is unable to deliver the Products or Project Services on time because the Customer has not provided appropriate access, instructions, documents, licences or authorisations:
  - 2.4.1. risk in the Products shall pass to the Customer (including for loss or damage caused by the Company's negligence)
  - 2.4.2. the Products shall be deemed to have been delivered; and
  - 2.4.3. MeasurIT may store the Products until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance) and charge a cancellation fee as set out in condition 4.5
  - 2.4.4. MeasurIT shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such delay.
- 2.5. In the event of non-payment of any amounts when they fall due in accordance with the terms of the respective invoice MeasurIT shall have the right to suspend the supply of Products and/or Project Services and/or terminate this Agreement.
- 2.6. MeasurIT must be informed in writing if the final destination and use of the Goods is outside the EU or EEA area.

**3. Acceptance**

- 3.1. The Customer shall use its best endeavours to assist MeasurIT in preparing drawings ("Design Drawings") if requested as part of the Project Services on the basis that the Design Drawings are completed within one or two drafts without significant changes to the original design brief prior to the date for which payment is due for the Design Drawings. In the event that the Customer has not accepted the Design Drawings by such date then MeasurIT shall have the right to charge the Customer for additional work or terminate the agreement and charge the Customer a cancellation fee for any Products pursuant to the terms of this agreement.
- 3.2. Products must be examined immediately upon delivery and shall be deemed to be accepted immediately upon whichever is the earlier of 48 days from the date of installation or if not installed upon the expiry of 28 days from delivery.
- 3.3. MeasurIT shall replace any Products damaged or lost in transit to the place of delivery provided such damage or loss is reported to MeasurIT within 5 working days of such delivery.
- 3.4. No other liability shall be accepted by MeasurIT in respect of any damage or loss

**4. Charges and Payment**

- 4.1. Where a Product only is supplied then an invoice for the Product Costs will be raised on the Invoice Date in accordance with the Order Form.
- 4.2. Where Project Services are supplied then invoices for the Project Services and any expenses will be raised at the point of delivery or being incurred subject to any separate agreement.
- 4.3. MeasurIT reserves the right to request payment in full on any date set out in the Order Form ("Invoice Date") but unless expressly stated before or on any such Invoice Date the Customer shall pay each invoice submitted to it by MeasurIT in full and in cleared funds within 30 days of receipt.
- 4.4. In the event that the Customer does not collect the Products on the date specified or in the event that MeasurIT is unable to deliver the Products or provide Project Services due to fault or non acceptance of delivery on the part of the Customer then MeasurIT shall be entitled to recover all disbursements including without limitation payments made to third parties for equipment, delivery and insurance costs and charge a cancellation fee pursuant to clause 4.5.
- 4.5. In the event that the Customer cancels its order prior to delivery of the Products; prior to the commencement of the Project Services; or during the provision of the Project Services then MeasurIT shall be entitled to recover all disbursements including without limitation payments made to third parties for equipment, delivery and insurance costs and MeasurIT shall be entitled to charge a cancellation fee of 30% of the order value.
- 4.6. MeasurIT may charge interest on any sum due from the due date for payment at the annual rate of 4% above the base lending rate from time to time of European Central Bank accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgement.
- 4.7. Time for payment shall be of the essence of this Agreement

**5. Passing of Property and Risk**

- 5.1. The Products are at risk of the Customer from the time of delivery.
- 5.2. Ownership of the Products shall not pass to the Customer until MeasurIT has received in full (in cash or cleared funds) all sums due to it in respect of:
  - 5.2.1. the Products; and
  - 5.2.2. all other sums which are or which become due to MeasurIT from the Customer on any account.
- 5.3. Until ownership of the Products has passed to the Customer, the Customer shall:
  - 5.3.1. hold the Products on a fiduciary basis as MeasurIT's bailee;
  - 5.3.2. store the Products (at no cost to MeasurIT) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as MeasurIT's property;
  - 5.3.3. not destroy, deface or obscure any identifying mark or packaging on or relating to the Products; and
  - 5.3.4. maintain the Products in satisfactory condition and keep them insured on MeasurIT's behalf for their full price against all risks to the reasonable satisfaction of MeasurIT. On request the Customer shall produce the policy of insurance to MeasurIT.
- 5.4. The Customer's right to possession of the Products shall terminate immediately if:
  - 5.4.1. the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or

- 5.4.2. the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Agreement or any other contract between MeasurIT and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986/Companies Acts 1963-2012 or the Customer ceases to trade;
  - 5.4.3. the Customer encumbers or in any way charges any of the Products; or
  - 5.4.4. any equivalent event under a foreign jurisdiction occurs.
- 5.5. MeasurIT shall be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not passed from MeasurIT.
  - 5.6. The Customer grants MeasurIT, its agents and employees an irrevocable licence at any time to enter any premises where the Products are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.
  - 5.7. On termination of the Agreement, howsoever caused, MeasurIT's (but not the Customer's) rights contained in this condition shall remain in effect.

**6. Limitation of Liability**

- 6.1. The following provisions set out the entire financial liability of MeasurIT (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of any breach of this Agreement; and any representation, statement or tortious act or omission including negligence arising under or in connection with this Agreement.
- 6.2. Illustrations, descriptions, weights and technical data in any of MeasurIT's catalogues, price lists, and statements (written or oral) made by any representative of MeasurIT are provided to give the Customer an approximate picture and description only and do not form the basis of any contractual liability.
- 6.3. All warranties, conditions and other terms implied by statute or common law (including without limitation that any Product shall accord with any illustration, description weights, technical data or statement) are to the fullest extent permitted by law, excluded from this Agreement.
- 6.4. Nothing in this Agreement excludes or limits the liability of MeasurIT for death or personal injury caused by MeasurIT's negligence or fraudulent misrepresentation.
- 6.5. All Products supplied are supplied for the purpose set out in the Order Form and MeasurIT shall not be liable to the Customer for the use of any Product in any manner other than the purpose set out in the Order Form.
- 6.6. Subject to clause 6.3 and 6.4:
  - 6.6.1. MeasurIT shall not be liable to the Customer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses, or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with this Agreement;
  - 6.6.2. MeasurIT's total liability under contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with this agreement shall be limited to the amount actually received by MeasurIT in relation to the relevant Product or Project Service that is the subject of the claim pursuant to the terms of this Agreement.
- 6.7. The Customer shall be liable for and will indemnify and keep indemnified MeasurIT in full against any and all liability loss damages costs legal costs professional and other expenses of any nature whatsoever incurred or suffered by MeasurIT arising out of any dispute contractual tortious or other claim investigation or proceedings brought against MeasurIT arising out of this Agreement.

**7. Guarantee**

In the event that any Product which is not a consumable and has been used in accordance with all operating instructions supplied with the Product but does not correspond to the purpose set out in the Product packaging or as stated in writing by MeasurIT and is not fit for such purpose within whichever is the earlier of 12 months of the date of installation or 18 months from the date of delivery then MeasurIT undertakes at its option to repair or replace such Product or to refund the cost of the Product and arrange collection of such Product from the Customer. This term can be expressly varied to a maximum of 36 months from date of delivery if noted in the Order Form.

**8. Intellectual Property Rights**

All intellectual property rights in the Products and Project Services remain the exclusive property of MeasurIT or where MeasurIT is a duly licensed distributor or agent on behalf of a third party then they remain the exclusive property of such third party.

**9. No Set Off**

All payments to be made under this Agreement shall be made in full without any set off or counterclaim and free from any deductions.

**10. Force Majeure**

Neither MeasurIT nor the Customer shall be responsible for any loss, damage, delay or failure in performance hereunder arising or resulting from an act of God, bad weather, act of war, seizure under legal process, strikes, boycott, lock out, riots, civil commotions or breakdown of political stability.

**11. General**

- 11.1. This Agreement constitutes the entire agreement and understanding between the parties and supersedes any prior agreement (whether written or oral) between the parties relating to the subject matter of this Agreement. The parties acknowledge and agree that in entering into this Agreement they do not rely on and shall have no remedy in respect of any statement warranty representation or understanding given or made by any person save those expressly set out in this Agreement.
- 11.2. No variation to this Agreement shall be of any effect unless it is agreed in writing and signed by each party or confirmed that it is agreed by e-mail.
- 11.3. Any notice request instruction or other document to be given hereunder shall be delivered or sent by registered post or to the address of the other party set out in this Agreement (or such other address as may have been notified) and any such notice or other document shall be deemed to have been served (if delivered) at the time of delivery (if sent by registered post) upon the expiration of forty-eight (48) hours after posting.
- 11.4. If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect.
- 11.5. Neither party shall be entitled to assign this Agreement nor all or any of their rights and obligations hereunder without the prior written consent of the other.
- 11.6. Nothing in this Agreement shall create or be deemed to create a partnership, or the relationship of employer and employee between the parties.
- 11.7. All amounts stated in this Agreement are expressed exclusive of VAT and any VAT arising in respect of any supply of Products and/or Project Services by MeasurIT shall be paid to MeasurIT as an additional payment.
- 11.8. Each of the Parties shall at all times during this Agreement and thereafter keep all information in relation to this Agreement confidential.
- 11.9. The Parties to this contract do not intend that any term of this Contract will be enforceable by virtue of the