

TERMS AND CONDITIONS

Sim2000 Imaging Limited trading as Sim Express

1. Definitions

In these conditions, unless the context requires otherwise:

- 1.1 'Buyer' means the person, company or firm who buys or agrees to buy goods from the Seller;
- 1.2 'Conditions' means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Seller;
- 1.3 'Delivery Date' means the date specified by the Seller when the goods are to be delivered;
- 1.4 'Goods' means the articles and standard pieces of equipment which the Buyer agrees to buy from the Seller;
- 1.5 'Price' means the price for the Goods excluding carriage, packing, insurance and VAT; and
- 1.6 'Seller' means Sim2000 Imaging Limited whose Registered Office is at Wisteria Cavendish House 369 Burnt Oak Broadway Edgware Middlesex HA8 5AW (Company number 05210780).

2. Applicable Terms

- 2.1 These Conditions shall apply to all contracts for the purchase of Goods by the Buyer from the Seller to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any sales offer, purchase order, confirmation of order or similar document or in correspondence. These Conditions constitute the entire understanding between the Buyer and the Seller with respect to the subject matter covered by the contract of purchase and supersedes all previous agreements and understandings between the parties.
- 2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions.
- 2.3 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.
- 2.4 Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Buyer and Seller.

3. Price and Payment

- 3.1 The Price of the Goods shall be the Seller's quoted price or if no price has been quoted the price listed in the Seller's price list current at the date of acceptance, which shall be binding upon the Seller provided that the Buyer shall accept the Seller's quotation within 30 days.
- 3.2 Unless otherwise agreed in writing all prices quoted or listed by the Seller are exclusive of Value Added Tax which the Buyer shall be additionally liable to pay to the Seller.
- 3.3 The Seller reserves the right, upon giving notice to the Buyer at any time before delivery, to increase the Price of the Goods to reflect any increase in the cost to the Seller due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, changes in currency regulations, alteration of duties, increases in the cost of labour) or as a consequence of any change of delivery dates, quantities or specifications by the Buyer or any delay caused by late or changed instructions of the Buyer or failure of the Buyer to give the Seller adequate instructions. The Buyer may cancel the contract within 7 days of the Seller giving notice of an increase in the Price of the Goods.
- 3.4 Time is of the essence for payment of the Price of the Goods. The Buyer shall make payment of the Price of the Goods in full before production will commence on the Goods ("the due date") notwithstanding that delivery may not have taken place and that property in the Goods will not have passed to the Buyer until payment of the Price and all sums due from the Buyer to the Seller (as provided for below).
- 3.5 If the Buyer fails to make full payment of the Price on the due date then without prejudice to any of the Seller's other rights the Seller may:
 - (a) suspend or cancel deliveries of any articles due to the Buyer; and/or
 - (b) appropriate any payment made by the Buyer to such of the Goods (or goods supplied under any other contract with the Buyer) as the Seller may in his sole discretion think fit; and/or
 - (c) charge the buyer interest (both before and after any judgment) on any unpaid amount at the rate of 4 per cent over base rate per annum until full payment of the unpaid goods is received in cleared funds by the Seller; and/or
 - (d) obtain from the Buyer on a full indemnity basis all costs, expenses, fees and commissions incurred by the Seller or its agents in connection with the recovery of any money due to the Seller under these Conditions, including legal costs and the costs of its collection agents.
- 3.6 The Buyer may not deduct from the Price or set off against the Price (including any applicable VAT payable) any claims, counterclaims, legal or equitable set offs or amounts due or claimed to be due from the Seller whether under these Conditions or otherwise.
- 3.7 In the event of the Buyer purchasing Sample Goods the word "Sample" will appear on those Goods, as a result of which a reduced Price will apply. Goods purchased as Sample sets must be collected within the time limits stipulated on the Order form. The Price paid for Sample sets can be offset against full Price Goods as long as payment is made before the time limit stipulated on the Order form is complied with. Payment is not refundable for Goods which are not collected within the time limit stipulated. Time is of the essence.

4. Delivery of the Goods

- 4.1 Delivery of the Goods shall be effected by the Buyer collecting the goods from the Seller's premises. The Buyer is entitled to take delivery of the Goods at any time after the Seller has notified the Buyer that the Goods are ready for collection. If the Buyer and Seller agree that the location for delivery is a place other than the Seller's premises delivery of the Goods shall be effected by the Seller delivering the Goods to that location.
- 4.2 The Seller reserves the right to make deliveries by installments in all cases. Where Goods are delivered by installment, the Buyer shall not be entitled to treat delivery of one or more installment as defective delivery or to accept repudiation of the Contract nor to defer payment for any previous installment.

4.3 Time shall not be of the essence for any delivery dates quoted by the Seller, its employees or agents and delivery dates are estimates only.

4.4 The Seller shall not be liable for any loss or damage (including without limitation loss of profits and/or consequential losses and/or direct and/or indirect losses) arising from any delay in delivery of the goods howsoever caused.

4.5 If no delivery of the goods is made by the Seller at all as a result of any cause beyond the Seller's reasonable control or as a result of the Buyer's fault, the Seller shall not be liable for any loss or damage (including without limitation loss of profits and/or consequential losses and/or direct and/or indirect losses). If no delivery of the goods is made by the Seller at all as a result of any other reason, the Seller's liability shall be limited to the difference in value between the price of the Goods and the cost to the Buyer of the same (or if unavailable the nearest equivalent) Goods in the cheapest available market to the Buyer and the Buyer shall be required to use all reasonable endeavours to obtain the replacement goods at the cheapest possible price.

4.6 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery information or instructions at the time stated for delivery then provided that this was not caused by circumstances beyond the Buyer's reasonable control and was not caused by the Seller's fault, the Seller may, without prejudice to any other right or remedy available:

- (a) store the goods until delivery and charge the Buyer for the reasonable costs of storage (to include insurance); and/or
- (b) sell the Goods at the best price readily obtainable and after deducting all reasonable storage and selling expenses account to the Buyer for those sums realised in excess of the Price or charge the Buyer for any shortfall obtained below the Price as the case may be.

5. Shortages and Return of Goods

5.1 The Buyer shall take delivery of the Goods tendered notwithstanding that the quantity so delivered shall be either greater or less than the quantity purchased provided that such discrepancy in quantity shall not exceed 5%. The Price shall be adjusted pro rata to the discrepancy.

6. Title and Risk

6.1 The Goods shall be at the Buyer's risk:

- (a) where it is agreed that delivery is to take place at the Seller's premises, at the time the Seller notifies the Buyer that the Goods are available for collection;
- (b) where delivery is agreed to take place at a location other than the Seller's premises and delivery takes place, at the time of delivery;
- (c) where it is agreed that delivery is to take place at a location other than the Seller's premises and the Buyer wrongfully fails to take delivery, at the time that delivery is tendered by the Seller.

6.2 Whether delivery has or has not taken place, property in the Goods shall not pass from the Seller until:

- (a) the Buyer shall have paid the Price plus VAT in full; and
- (b) no other sums whatever are due from the Buyer to the Seller.

6.3 Until property in the Goods passes to the Buyer in accordance with the above provision the Buyer shall hold the Goods and each of them on a fiduciary basis as bailee for the Seller. The Buyer shall store the Goods (at no cost to the Seller) separately from all other goods in its possession and marked in such a way that they are clearly identified as the Seller's property.

6.4 Notwithstanding that the Goods (or any of them) remain the property of the Seller the Buyer may sell or use the Goods in the ordinary course of the Buyer's business at full market value for the account of the Seller. Any such sale or dealing shall be a sale or use of the Seller's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal as regards the sub-buyer when making such sales or using such property. Such part of the proceeds of sale as represent or are equivalent to the Price at which the goods resold were invoiced by the Seller to the Buyer shall be beneficially owned by the Seller and shall be held by the Buyer as trustee for the Seller and shall be placed in a separate account so as to be identifiable as being in the beneficial ownership of the Seller and shall be kept separate by the Buyer and shall be kept by the Buyer as a fiduciary of the Seller and shall at all material times be identified as the Seller's money.

6.5 The Seller shall be entitled to recover the Price (plus VAT) notwithstanding the property in any of the Goods has not passed from the Seller.

6.6 Until such time as property in the Goods passes from the Seller the Buyer shall upon request deliver up such of the Goods to the Seller as have not ceased to be in existence or been resold. If the Buyer fails to do so the Seller may forthwith enter upon any premises owned occupied or controlled by the Buyer where the goods are situated or any premises of third parties where the Goods are situated and repossess the Goods. On the making of such request, the rights of the Buyer under clause 6.4 above to sell or use the Goods shall cease.

6.7 The Buyer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer does so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.

6.8 The Buyer shall insure and keep insured the Goods to the full Price against 'all risks' to the reasonable satisfaction of the Seller until the date that property in the Goods passes from the Seller, and shall whenever requested by the Seller produce a copy of the policy of insurance. Without prejudice to the other rights of the Seller if the Buyer fails to do so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.