Unit 7 Kings Court Prince William Avenue, Sandycroft, Deeside
Flintshire, CH5 2QZ
Telephone Number: 01244 629559
Email: office@ndtgroup.co.uk
Registration Number. 1104906
VAT Registration Number:29144445

Terms and Conditions

These Terms and Conditions apply to all Quotations and Contracts for Sale or Hire of Products or Provision of Services provided by or entered into by NDT Group Ltd.

A1. Definitions

In these Terms and Conditions:

"**Company**" means NDT Group Ltd (company registration number 11049062).

"**Company's Address**" means Factory Road, Sandycroft, Deeside, Flintshire, CH5 2QZ, United Kingdom or the usual place of business of any subsidiary or related company of the Company as detailed in the Quotation.

"**Contract**" means the agreement between the Company and the Customer for any form of business conducted by or with the Company as set out in the Quotation, incorporating these Terms and Conditions.

"control" has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be interpreted accordingly.

"**Customer**" means any person, firm, company, partnership, competent authority or other business entity who agrees to purchase or hire Products or obtain Services from the Company under the Contract.

"**Delivery Address**" means the address for delivery of Products or Services which shall be the Company's Address or such other address as may be agreed in Writing.

"**Estimated Delivery Date**" means the date on which the Company estimates that Products or Services will be delivered.

"Force Majeure Event" an event, circumstance or cause beyond a party's reasonable control as set out in clause A.14.1.

"**Hire Period**" means the period from the time the Product is dispatched by the Company to the Customer or collected by the Customer or its agents from the Company's Address until the time the Product is received back at the Company's Address or other such address as may be agreed in Writing.

"**Losses**" includes all actions, claims, demands, proceedings, damages, awards, payments, losses, costs, expenses, penalties, fines, compensation or other liabilities (direct, indirect, consequential or otherwise including loss of profit, business, turnover or market share, loss of goodwill, anticipated savings, business interruption, loss of data) (calculated on a full indemnity basis), legal or professional expenses and interest thereon.

"**Price**" means the charge made by the Company for the provision of Services or sale of Products as detailed further in the Quotation.

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"**Product(s)**" means any goods, materials, equipment, machinery, products or articles of whatsoever nature, which the Company is to supply, sell or hire to the Customer.

"**Quotation**" means the Company's quotation for the provision or hire of Products or provision of Services, which includes any document issued by the Company indicating the terms on which Products or provision of Services are to be provided.

"**Services**" means any services or work provided by the Company to the Customer under the Contract including, but not limited to, the provision of any consultancy or advisory services, or the service, maintenance, refurbishment or provision of qualified operators for the use or operation of the Products and inclusive of the testing, maintenance, possible repair and calibration of the Customers own products.

"**Terms and Conditions**" means the Terms and Conditions set out in this document as may be varied from time to time pursuant to clause A2.2.

"**Writing**" unless expressly provided otherwise in these Terms and Conditions, a reference to **written** or **writing** excludes fax but not email.

A2. Application

A2.1 All business conducted by the Company with the Customer, including any contracts, quotations or pre-contractual negotiations, shall be subject to these Terms and Conditions to the exclusion of any and all other terms and conditions unless otherwise agreed in Writing.

A2.2 No variation or addition to these Terms and Conditions shall be binding unless agreed in Writing by the Company. Any and all statements, representations, advice or recommendations made or given by the Company during negotiations prior to the conclusion of a Contract are not binding unless incorporated into the Contract in Writing signed by both parties.

A2.3 The headings in these Terms and Conditions are for convenience only and shall not affect their interpretation.

A2.4 If any provision of these Terms and Conditions is held by any competent court, tribunal or authority to be invalid or unenforceable in whole or in part the validity of the remainder of the provision and all other remaining provisions of these Terms and Conditions shall not be affected thereby.

A3. Description of Contract

A3.1 No Contract shall be formed until the Company confirms in writing its acceptance of the offer of business to be conducted with the Customer.

A3.2 The Company will sell, hire and/or provide Products and/or Services and the Customer will pay the specified Price, in accordance with clause A.5 below.

A3.3 The Company reserves the right to amend the Contract if required by any applicable law or regulatory requirement, and the Company shall notify the Customer in any such event.

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A4. Performance of Contract

A4.1 Unless otherwise agreed in Writing, the Customer shall collect Products from the Company's Address or such other location as the parties may agree before delivery within seven (7) days of the Company notifying the Customer that the Products are ready for collection. Alternatively, and if agreed between the Company and the Customer, the Company shall arrange for the Products to be delivered to the Customer at the location agreed in the Quotation.

A4.2 Where the Company agrees to sell or hire Products or provide Services to the Customer, the Company will use all reasonable effort to deliver any Product or Service by the Estimated Delivery Date. However, any dates specified by the Company for delivery of the Products or Services are intended to be an estimate only and if no dates are so specified, delivery will be within a reasonable time. The Company shall have no liability for any failure to deliver Products to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Products. Time shall not be of the essence for the performance of the Services or delivery of the Products.

A4.3 If the Customer fails to take delivery of the Products or Services within seven (7) days (or any other period agreed pursuant to this clause) from receipt of notice in Writing from the Company then, without prejudice to any other right or remedy available to the Company, the Company may:

A4.3.1 Issue its invoice in respect of the Products or Services as if they had been delivered;

A4.3.2 Store the Products until actual delivery is made and charge the Customer for the costs of storage.

A4.4 The Products are at the risk of the Customer from the time of delivery or the time of collection from the Company's Address (as the case may be) and the Customer shall insure the Products accordingly.

A4.5 Notwithstanding clause A4.4, where the Company agrees to sell Products to the Customer, title to the Products shall not pass to the Customer until the Company has received payment of the Price in full (in cash or cleared funds), including any additional sums which become due from the Customer under the Contract. The Customer hereby agrees to and grants the Company a continuing security interest in any and all such Products together with all accessions, attachments, substitutions and amalgamations thereto, and any proceeds or products derived from the sale thereof. Without prejudice to any other rights and remedies available to the Company under the Contract or in law, in the event of any breach of Contract by the Customer, the Company shall have the full right and entitlement without further notice to the Customer to take possession of all or any part of the Products and to sell the same in a commercial manner in accordance with applicable law and to apply the proceeds of such sale against any Losses suffered by the Company. The Customer hereby agrees to do all that is necessary by law to give effect to such security, including but not limited to, maintaining the Products in satisfactory condition and keeping them insured against all risks

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for their full price on the Company's behalf from the date of delivery.

A4.6 Where the Services include the analysis of samples of Customers' products at the Company's Address the risk and legal title in their products strictly remains with the Customer at all times including while such products are at the Company's Address and the transportation of those products to and from that site.

A5. Price

A5.1 The Price for the provision of Products or Services shall be that agreed between the parties and confirmed in Writing by the Company.

A5.2 All prices quoted by the Company in its Quotations are valid for thirty (30) days only. The Company reserves the right to amend any typographical, clerical or other error or omission on any documentation containing pricing information issued by or on behalf of the Company, and the Company shall have no liability to the Customer for any such errors or omissions.

A5.3 Unless otherwise specified, the Price for any Products or Services provided by the Company to the Customer shall be exclusive of any travel, accommodation, subsistence or other out-of-pocket expenses of the Company's employees, servants or agents (which where applicable the Customer shall pay to the Company at cost plus handling charge) and shall exclude any costs, charges relating to storage, loading, carriage, unloading, delivery and insurance of any Products or any contamination clean-up costs resulting from the Customer's products or any applicable duties or taxes or additional costs of such nature, which shall remain the liability of the Customer.

A5.4 Where applicable the Company is obliged to charge in addition to the Price any value added tax in the United Kingdom.

A6. Invoicing and Payment

A6.1 The Company will issue to the Customer an invoice or invoices for the Price of any Products or Services with any additional costs and/or charges payable by the Customer following delivery. For Products with an agreed installation, invoicing will follow on-site acceptance or if installation is delayed by the Customer invoicing will be 3 months from delivery to the delivery address.

A6.2 Unless otherwise agreed in Writing, payment of any invoice submitted by the Company to the Customer is due within thirty (30) days of the date of the invoice and payment within this time shall be of the essence of the Contract.

A6.3 Receipts for payment of any invoice will only be issued upon request in Writing by the Customer.

A6.4 If the Customer fails to make any payment of any invoice within the due date for payment then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:

A6.4.1 cancel the Contract, and require immediate return at the Customer's expense of any Products;

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A6.4.2 suspend further performance by the Company under the Contract;

A6.4.3 charge the Customer interest on any unpaid amount from the date payment is due to the date payment in full is made on a daily basis at the per annum rate of 8% above the base bank rate from time to time of HSBC Bank PLC;

A6.4.4 be reimbursed by the Customer for all Losses incurred by the Company in the collection of any overdue amount.

A6.5 All amounts payable by the Customer under these Terms and Conditions shall be paid in full, in cleared funds, without any set-off, counterclaim, withholding or deduction of any kind.

A6.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Company to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the Goods or Services or both, as applicable, at the same time as payment is due for the supply of the Products or Services.

A7. Warranties

A7.1 Subject to the exceptions set out in clause A7.2 below, the Company warrants that the Products will correspond with their specification at the time of delivery and Products will be free from defects for a period of twelve (12) months from the date of delivery to the delivery address. The Company warrants to the Customer that the Services will be provided using reasonable care and skill.

A7.2 The warranty given in clause A7.1 is given by the Company subject to the following exceptions:

A7.2.1 the Company shall not be liable in respect of any defect in the Products or Services arising from any drawing, design or specification supplied by the Customer;

A7.2.2 the Company shall not be liable in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's written instructions, misuse or alteration or repair of the Products without the Company's approval;

A7.2.3 the Company shall have the right under sub-clause A7.2.2 to charge the Customer for costs incurred in rectifying the defect;

A7.2.4 the Company shall not be liable for any warranty set out in these Terms and Conditions (or any other warranty, condition or guarantee) if the total price for the Products or Services has not been paid by the due date for payment;

A7.2.5 the Company shall not be liable if performance of its obligations are prevented or delayed by any act or omission of the Customer or failure by the Customer to

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perform any relevant obligation (**Customer Default**);

A7.2.6 any Software Warranty period runs for six (6) months from the date of installation of the Product or nine (9) months from delivery of the Product to the Customer's site whichever is the sooner;

A7.2.7 any Spare Parts Warranty period runs for three (3) months from the date of delivery to the Customer's site.

A7.3 Any claim by the Customer based on any defect in quality, condition, shipping or transit damage, or non-compliance with specification must be notified to the Company in Writing within seven (7) days of delivery, time being of the essence; otherwise, the Customer shall be deemed to have accepted the Products or Services in all respects and the Company shall have no liability for such defects or failures, howsoever arising.

A7.4 Where any valid claim in respect of any of the Products or Services which is based on any defect in the quality or condition of the Products or the failure to meet specification is notified to the Company in accordance with these Terms and Conditions, the Company shall be entitled to repair or replace the Products (or the part in question) free of charge and the Company shall have no further liability to the Customer.

A7.5 The Customer is responsible for ensuring provision of agreed facilities, training, documentation, equipment and personnel to facilitate the installation or repairs to Products. The Customer will be liable for Losses and lost time charges if delays are caused due to the agreed provisions not being in place.

A7.6 The Customer warrants that Products purchased or hired from the Company or their own products will be free from radioactive contamination if/when the Products or their own products are required to be removed from the Customer's premises for repair or return and whilst at the Company's address.

A7.7 Without limiting or affecting any other right or remedy available to it, the Company may suspend performance of the Services until the Customer remedies the Customer Default, and rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Company's performance of any of its obligations.

A7.8 Save as expressly stated herein, all other warranties, conditions and representations, whether express or implied, statutory or otherwise, including but not limited to implied warranties of satisfactory quality or fitness for a particular purpose, are hereby excluded to the fullest extent permitted by law.

A8. Limitation of Liability and Indemnity

A8.1 Subject to the remaining provisions of this clause A.8, the Company's liability to the Customer under the Contract for any losses including any loss or damage arising from negligence and/or any act or omission of any person employed, hired or engaged by the Company shall not exceed the Price.

A8.2 The Company shall have no liability to the Customer for any consequential and/or indirect

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loss or damage whether for loss of profit or otherwise, loss of goodwill, anticipated savings, business interruption, loss of data, or any special, indirect or consequential damages, however arising, costs, expenss or other claims for consequential compensation whatsoever and whether caused by the negligence of the Company its employees, servants, agents or otherwise. The limitations herein shall survive and apply even if any remedy available to the Customer fails in its essential purpose.

A8.3 Unless otherwise agreed in Writing, the Customer shall fully indemnify the Company against any Losses caused (including by negligence) to the Customer's employees, servants or agents and/or property of the Customer's employees, servants or agents during the execution of the Contract.

A8.4 Nothing in these Terms and Conditions excludes or limits the Company's liability for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.

A8.5 Where the Company agrees to sell or hire Products to the Customer, the Company shall not be liable to the Customer for any Losses caused directly or indirectly by any delay in the delivery of the Products (even if caused by the negligence of the Company, its employees, servants or agents), nor will any delay entitle the Customer to terminate or rescind the Contract unless such delay exceeds thirty (30) days.

A8.6 Where the Company agrees to provide a Service to the Customer, the Company shall not be liable to the Company for any Losses caused directly or indirectly by any delay in the provision of the Service (even if caused by the negligence of the Company, its employees, servants or agents). Unless otherwise agreed, the Customer shall not be entitled to cancel the Contract solely because of such delay.

A9. Termination

A9.1 The Company shall be entitled to terminate the Contract forthwith by notice in Writing to the Customer if:

A9.1.1 the Customer commits an irremediable breach, persistently repeats a remediable breach or commits any remediable breach of the Contract and fails to remedy it within seven (7) days of receipt of notice in Writing of the breach requiring remedy of the same; or

A9.1.2 the Customer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of solvent amalgamation or reconstruction); or

A9.1.3 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or

A9.1.4 the Customer ceases or threatens to cease to carry on business; or

A9.1.5 where the Customer is resident in a jurisdiction other than England and Wales,

an event similar to any of those specified in clauses A9.1.2 to A9.1.4 (inclusive) occurs to or

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in relation to the Customer; or

A9.1.6 where the Customer undergoes a change of control.

A9.2 In the event of termination by the Company pursuant to clause A9.1 above then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further deliveries or Services due under it without any liability to the Customer and, if the Services have already been provided, Products delivered or equipment hired but not paid for, the price of the Services or Products shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary and the Company shall be entitled to charge interest at the per annum rate of 8% above the base bank rate from time to time of HSBC Bank PLC from the time of such cancellation or suspension until the Company receives payment.

A9.3 The Company may terminate the Contract in whole or in part at any time, for any reason, by giving not less than fourteen (14) days' written notice to the Customer. In such cases, the Customer shall not be entitled to compensation for any Losses.

A9.4 The Customer shall be entitled to terminate the Contract by giving thirty (30) days' notice in Writing of termination to the Company. In the event of termination by the Customer pursuant to this clause, the Company shall invoice the Customer and the Customer shall immediately pay to the Company the full Price together with any additional costs and/or charges payable by the Customer under clause A5.

A9.5 On termination of the Contract, the Customer shall:

A9.5.1 immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Products and Services supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Customer immediately on receipt; and

A9.5.2 return all of the Company materials and any Products which have not been fully paid for. If the Customer fails to do so, then the Company may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and shall not use them for any purpose not connected with the Contract.

A10. Laws and Regulations

A10.1 The Customer shall comply with all laws and regulations relating to the ownership and use of the Products including health and safety requirements.

A10.2 The Customer shall ensure that all appropriate safety information (whether or not supplied by the Company) is distributed and drawn to the attention of its employees and all others who require it for the safe handling or use of the Products.

A10.3 The Customer shall indemnify, defend, and hold harmless the Company against any and all Losses, claims, liabilities, damages, costs, and expenses (including legal and professional fees) arising from or relating to (a) breach of laws or

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regulations by the Customer, (b) third-party claims concerning the Products or Services, (c) infringement of intellectual property rights connected with Customer's instructions, and (d) contamination or pollution associated with the Customer's products.

A11. Restrictions

A11.1 The Customer hereby agrees that, during the term of the Contract and for a period of twelve (12) months after expiry or termination howsoever caused, he will not solicit the Company's staff who are known by the Customer to have been employed or engaged in the performance of the Contract. For the purposes of this clause, "solicit" means a direct or indirect attempt to induce such person to take an engagement with such party as an employee, director, sub-contractor or independent contractor provided that this clause shall not apply to any engagement as a result of a general advertisement or recruitment campaign.

A12. Confidentiality

A12.1 All techniques, processes, inventions, equipment, drawings, designs, specifications, proposals and such information concerning the Services or Products or relating to the Company's business of which the Customer shall obtain knowledge or information (except to the extent that they are within or fall into the public domain other than by breach of the Contract) shall remain both during and after the completion of the business conducted under the Contract the absolute and exclusive property of the Company and the Customer shall keep confidential and retain the same with the utmost secrecy and shall use its utmost endeavors to ensure that all its employees, servants and agents shall abide by the terms of this provision as though it were binding upon each of them and the Customer shall not use same for its own purposes, nor shall it cause or permit anything which may damage or endanger the intellectual property of the Company or allow or assist others to do so.

A13. Waiver

A13.1 No payment accepted by the Company and no neglect, delay or indulgence on the part of the Company in enforcing the Contract or any of the Terms and Conditions thereof shall operate as a waiver of the Company's rights thereunder, unless in each case the Company expressly so agrees in Writing.

A14. Force Majeure

A14.1 The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations if the delay or failure was due to any cause beyond the Company's reasonable control including (without limitation):

A14.1.1 act of God, storm, flood, tempest or other weather conditions, explosion, fire or accident;

A14.1.2 war or threat of war, civil war, hostilities, sabotage, insurrection, riot or civil disturbance, or requisition;

A14.1.3 Governmental or local authority acts, restrictions, regulations, bye-laws,

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prohibitions or measures of any kind;

A14.1.4 import or export regulations or embargoes;

A14.1.5 strikes, lock-outs or other industrial actions or trade disputes whether involving employees of the Company or of a third party;

A14.1.6 difficulties in obtaining raw materials, labour, fuel, parts, equipment, machinery or other essential supplies;

A14.1.7 failure or breakdown in equipment or machinery from power failure or other external causes;

A14.1.8 pandemic or epidemic.

A14.2 If a Force Majeure Event continues for more than fourteen (14) consecutive days, the Company may terminate the Contract immediately on written notice, without liability. For the avoidance of doubt, the Customer's payment obligations under the Contract are not suspended or delayed by any force majeure event affecting the Customer.

A15. Cross Claims and Set Off

A15.1 The Customer hereby waives any right to set-off under the Contract or otherwise and agrees to pay all sums due regardless of any equity, set-off or cross claim on the part of the Customer against the Company. Any attempt by the Customer to exercise a set-off, counterclaim, or deduction with respect to any payment due shall be deemed a material breach, entitling the Company, at its sole option, to suspend performance or terminate the Contract forthwith.

A16. Computer Software

A16.1 If the Company supplies to or makes available for use by the Customer any computer software programme and associated documentation, the Company does so on the following terms:

A16.2 The Customer is granted a non-exclusive licence to use such computer software programmes and any associated documentation.

A16.3 All copyright trademarks and other intellectual property rights remain the exclusive property of the Company. All right, title and interest in and to all deliverables, documentation, reports, test data and results generated in connection with the Products or Services shall remain with the Company. The Customer shall not disassemble, decompile, reverse-engineer or otherwise analyse any software or materials supplied by the Company.

A16.4 The Customer shall not copy the whole or any part of any such computer software programme or associated documentation or modify or combine the whole or any part of the same with any other software or documentation.

A16.5 The Customer shall not assign, transfer, lease, sell, or otherwise trade in or encumber the computer software programme nor use on behalf of or make available the same to any third party.

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A17. Notices

A17.1 Any notice required to be given by either party under the Contract may be given by e-mail to the e-mail address of the contact person of the relevant party to the Contract. A notice is deemed to be received when sent by e-mail at the time of transmission. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

A17.2 In the case of legal proceedings, any notice required to be given by either party under the Contract shall be delivered or sent by pre-paid first class recorded delivery letter addressed to the registered office of the party to be served or to such other place as may be designated by the party for the purpose of service and shall be deemed to have been served in the case of a notice delivered by hand, when delivered, in the case of a letter, forty-eight (48) hours after the time of posting.

A18. Non-Assignment

A18.1 The Customer shall not assign, transfer or sub-contract the Contract or any benefit, interest, right or obligation under the Contract, without the prior agreement of the Company in Writing.

A18.2 Any assignment, transfer or sub-contracting by the Customer in contravention of this clause A.18 shall be void and shall entitle the Company to terminate the Contract forthwith without liability.

A19. Governing Law and Jurisdiction

A19.1 The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the laws of England.

A19.2 The Customer hereby irrevocably agrees for the benefit of the Company that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation.

A19.3 Notwithstanding clause A.19.2, the Company may, at its sole option, bring proceedings to enforce the Contract, and any order, judgment or award made under or in connection with them, in the courts of the jurisdiction in which a Customer is domiciled, incorporated, resident, has assets, or carries on business, or in any other court of competent jurisdiction. The Customer irrevocably submits to the jurisdiction of any such court for those purposes and waives any objection to proceedings being brought in that court on the grounds of forum non conveniens or otherwise.