

**Standard Purchasing Terms**

**1. Definitions**

- 1.1. "Purchaser" shall mean OpTek Limited (trading as OpTek Systems), whose registered address is Unit 1 Foxcombe, Wyndyke Furlong, Abingdon | Oxfordshire | OX14 1DZ UK.
- 1.2. "Supplier" shall mean the party to whom this document is addressed.
- 1.3. "Supplies" shall mean all goods, services, materials or other such requirements as described herein.

**2. Delivery**

- 2.1. The time of delivery shall be of the essence of this contract and failure to deliver within the time specified herein shall enable the Purchaser (at the Purchaser's option) to be released from any obligation to accept and pay for the Supplies and/or to cancel all or therefore without prejudice in either case to the Purchaser's other rights and remedies.
- 2.2. Quantities in excess of the quantity specified herein may, at the Purchaser's option, be rejected.
- 2.3. Deliveries shall only be accepted on normal working days between the hours of 0830 and 1700 Monday to Friday unless otherwise specified in writing by the Purchaser.
- 2.4. If the Supplies are not delivered in accordance with this contract the Supplier shall forthwith effect correct delivery and shall be responsible for any additional costs or expenses in so doing.
- 2.5. Liquidated Damages for late delivery shall be applicable to this contract if specified on the face of this order.
- 2.6. Deliveries shall be made DDP OpTek at the address specified on the face of this order in accordance with Incoterms 2010
- 2.7. Unless otherwise agreed in writing by the Purchaser, the Supplier shall arrange safe and adequate facilities for offloading and/or manhandling heavy or bulky Supplies at the specified delivery address. Provision of such facilities shall be at the expense of the Supplier.
- 2.8. Title and risk in the Supplies, or part thereof as appropriate, shall pass to the Purchaser upon delivery.
- 2.9. The Supplies shall be properly packaged and appropriately labelled so as to prevent (as far as is reasonably practical) damage, deterioration, leakage or other hazard whilst in transit. Unless specified herein or otherwise agreed in writing, all containers, wrappings, packing, pallets, boxes and such like shall be considered as being non-returnable and their cost as having been included in the price for the Supplies.
- 2.10. Upon dispatch of any consignment of the Supplies, the Supplier shall send to the Purchaser at the address specified for the delivery of the Supplies an advice note specifying the means of transport, the place and date of dispatch, the number of packages, the contents of the consignment and the order number specified herein.
- 2.11. The Supplier shall free of charge to the Purchaser and as quickly as possible either repair or replace (as the Purchaser shall elect) such of the Supplies which have been damaged in transit or having been placed in transit fail to be delivered to the Purchaser provided that either:
  - i) in the case of damage to such Supplies in transit the Purchaser shall within thirty (30) working days of delivery give notice to the Supplier that the supplies have been damaged or
  - ii) in the case of non-delivery, the Purchaser shall (provided that the Purchaser has been advised of the dispatch of the Supplies) within ten working days of the notified date of delivery give notice to the Supplier that the Supplies have not been delivered.

**3. Inspection and Rejection**

- 3.1. The Supplier shall be responsible for the inspection and testing of the Supplies and shall ensure that the Supplies are in compliance with this contract prior to delivery.
- 3.2. Notwithstanding the provisions of Sub-Clause 3.1 hereof, the Supplier shall permit the Purchaser's authorised representatives to make such inspections or tests that the Purchaser may reasonably require.
- 3.3. Any inspection, check, approval or acceptance given on behalf of the Purchaser shall not relieve the Supplier or its subcontractors from any obligation or liability set forth herein.
- 3.4. In the case of the Supplies delivered to the Purchaser not conforming with this contract whether by reason of being quality or in a quantity not stipulated or being unfit for the purpose for which they are required where such purpose has been made known in writing to the Supplier or non-compliance with the description or specification or sample, the Purchaser shall be entitled to purchase elsewhere as near as practicable to the same specification and conditions as circumstances shall permit but without prejudice to any other right which the Purchaser may have against the Supplier, including but not limited to payment by Supplier of excess costs incurred by the Purchaser on doing so. The making of payment shall not prejudice the Purchaser's right of rejection and Supplier shall immediately reimburse Purchaser in respect of the Supplies and any applicable taxes. Before exercising the said right to purchase elsewhere the Purchaser shall give the Supplier reasonable opportunity to replace rejected Supplies with Supplies which conform to the contract. Such replacement shall be with new Supplies. Reworking or modification of rejected supplies shall only be undertaken with the express written consent of the Purchaser.
- 3.5. The Supplier shall not vary any of the Supplies from the specification or description specified herein except as directed by the Purchaser in writing.

**4. Warranty**

- 4.1. Without prejudice to any rights which the Purchaser may have by statute, common law or otherwise, the Supplier shall as soon as reasonably practical repair or replace (as the Purchaser shall elect) all Supplies which are or become defective during the period of twelve (12) months next from the date of putting into service or eighteen (18) months next from the date of delivery, whichever is the sooner, where such defects occur from proper usage and are due to faulty design, Supplier's erroneous instructions as to use or erroneous use data, or inadequate or faulty materials or workmanship, or any other breach of Supplier's warranties express or implied. Repairs or replacements (as the case may be) shall themselves be subject to the foregoing obligations for a period of twelve (12) months from the date of delivery, installation or passing of tests (if any) whichever is deemed appropriate after repair or replacement.

**5. Indemnity**

- 5.1. Without prejudice to any other rights or remedies of the Purchaser, the Supplier shall indemnify the Purchaser against all actions, suits, claims, demands, losses, charges, costs and expenses (including but not limited to indirect or consequential losses) arising or alleged to arise in connection with:
  - iii) Damage or injury to any person or property to the extent that the same shall have been occasioned by the negligent or wilful acts or omissions of the Supplier, its employees, agents or contractors during such times as he or they were on the Purchaser's premises for any purpose in connection with this contract;
  - iv) Defective workmanship, design or unsound quality of the Supplies described or specified herein;
  - v) The failure of the Supplier to supply the Supplies in accordance with the terms of this contract;
  - vi) Infringement of any patent, registered design, trade mark, copyright or other third party right, provided always that such indemnity shall not apply to any infringement which is due to the Supplier having followed a design or written instruction furnished by the purchaser.
- 5.2. The Supplier shall insure with a reputable insurance company its liabilities under this contract for a minimum of five million pounds Sterling per event and if so required by the Purchaser at any reasonable time produce the policy of insurance and the receipt for the current premium for inspection by the Purchaser. The Supplier agrees that any monies received by the supplier from the insurance company in full or part settlement of a claim arising out of this contract shall be paid immediately to the Purchaser without offset or counter claim. Any limitation, monetary or otherwise in such policy shall not be construed as a limitation of Supplier's liability and the Supplier shall notwithstanding such limitation remain liable in full for the matters and extent not covered by such policy.

**6. Confidentiality**

- 6.1. All plans, drawings, designs or specifications supplied by the Purchaser to the Supplier shall remain the property of, and shall be returned to, the Purchaser on completion of the contract and shall not be copied or disclosed to any third party except for the purpose of this contract. Whilst in the possession of the Supplier, such plans, drawings, designs, specifications and any documentation supplied by the Purchaser specified at the time of such supply as being confidential shall be kept in a secure place at all times by the Supplier at least to the extent that the Supplier keeps his own confidential information secure.
- 6.2. No photographs or other such image capture of any of the Purchaser's equipment, installations, property or the Supplies (whether complete or part complete) or any components thereof which are unique to said Supplies shall be taken or otherwise captured without the Purchaser's prior consent in writing.
- 6.3. The Supplier shall not disclose the existence of this contract or disclose the Purchaser's name in connection with this contract without the Purchaser's consent in writing.

**7. Tools, Materials and Samples**

- 7.1. Where tools and/or test equipment and/or materials and/or samples are supplied by the Purchaser, the Supplier shall accept full responsibility for their proper storage, safe custody and method of use and shall accept the risk of loss or damage howsoever arising. Any such tools, test equipment, materials and samples shall be used by the Supplier only for the purposes of this contract and shall be returned at the supplier's expense at the completion of the contract and unless otherwise agreed by the Purchaser in writing. Surplus materials and/or scrap shall be disposed of in accordance with the Purchaser's instructions. Waste of materials supplied by the Purchaser arising from bad workmanship or negligence of the Supplier shall be reimbursed at the Supplier's expense. Title in such tools, test equipment, materials and samples shall at all times remain in the Purchaser.

**8. Termination**

- 8.1. Without prejudice to any other rights or remedies of the Purchaser under this contract, the Purchaser shall have the right forthwith to terminate this contract by written notice to the Supplier or his trustees in bankruptcy or receiver or (if a company) liquidator or administrator if the Supplier shall have a receiver appointed over all or a substantial part of its assets or (if an individual) be declared bankrupt or (if a company) shall go into liquidation or have an administrator appointed to manage its assets.
- 8.2. The Purchaser shall have the right to determine this contract at any time by giving the Supplier written notice. A fair and reasonable price shall be agreed for all work in progress at the time of such determination providing that all such work is delivered to the Purchaser and further provided that the supplier has made all reasonable endeavours to mitigate any expenses incurred as a result of determining or varying any of its subcontracts placed in order to fulfil its obligations under this contract.

## 9. Intellectual Property Rights

- 9.1. Where development forms part of the requirement of this contract the ownership of any intellectual property rights including but not limited to patents, registered design rights, unregistered design rights and copyright arising from such development shall vest in the Purchaser. The Supplier shall co-operate in any measure necessary to facilitate such vesting as soon as practicable after any such right arises.

## 10. Contract documents

- 10.1. The conditions stipulated herein apply to all purchase orders placed by the Purchaser. In accepting or otherwise proceeding to comply with the requirements of this contract between the Purchaser and the Supplier for the provision of the supplies shall be subject to and governed by these terms and conditions only. Any other terms or conditions (or purported terms and conditions) which in any way conflict with, extend, qualify, negate or are inconsistent with any of the terms and conditions herein shall have no effect. Acceptance of any goods delivered to the Purchaser hereunder shall not constitute or be deemed to constitute an acceptance by the Purchaser of the terms and conditions contained in any delivery documentation furnished by the Supplier, its agents or subcontractors.
- 10.2. The terms and conditions herein may only be amended or varied in writing, signed by a duly authorised representative of the Purchaser.
- 10.3. The Supplier shall not transfer or assign this contract or the benefit thereof to any third party without the prior written consent of the Purchaser.
- 10.4. Any concession, failure, delay or indulgence or forbearance by the Purchaser in the exercise of its rights under this contract shall not be construed as a waiver or relinquishment of the future exercise of any such right, and the obligations of the Supplier shall remain in full force and effect.
- 10.5. The headings ascribed herein shall not affect the construction of these terms and conditions.
- 10.6. The construction, validity and performance of this contract shall be subject to the laws of England and to the sole jurisdiction of the courts of England and Wales.
- 10.7. OpTek routinely monitors the performance of Suppliers for on time delivery avoidance of errors and under-performing suppliers will be discontinued.

## 11. System Security

- 11.1. If Seller or any employee, independent contractor or agent of Seller (collectively referenced as "Seller") is given access to Humanetics' computer system(s), hardware, software or other equipment (collectively "**Systems**") in connection with the delivery of goods or services, Seller shall comply, and cause such individual or company to comply, with Humanetics' Systems security policies as may be revised by Humanetics from time to time and will not tamper with, compromise or circumvent any security or audit measures employed by Humanetics. Seller and each such individual; and company to be given access to Systems may be required to execute a separate agreement governing access to the System. Seller shall, and shall cause each such individual or company to, exercise reasonable care in using and storing the Systems, not surrender possession or control of the Systems to any third party or permit any lien or encumbrance to be placed upon Systems, use the Systems solely to perform the applicable services, return the Systems to Humanetics upon request and assume all risk of use of the Systems. Seller shall indemnify and hold Humanetics harmless from and against the loss of any damage to the System.