



VA Technology Ltd (hereafter referred to as VA Tech) hereby gives notice of its objection to any different or additional terms and conditions except for any such terms and conditions as may be expressly accepted by it in writing. Unless different or additional terms and conditions are stated or referred to in the proposal, in which event such different or additional terms and conditions shall be exclusive as to the particular subject covered, the terms and conditions stated below apply. Such terms and conditions supersede any prior or contemporaneous agreements or correspondence between the parties.

#### **Quotations.**

Quotations, unless renewed or otherwise specified, expire 30 days from date of quotation.

#### **Price Policy.**

Prices become firm upon VA Tech acceptance of the order for shipment within 12 months from date of such acceptance.

#### **Terms of Payment.**

Payment is due on all orders 30 days from the date of invoice. Payment is due on all systems & equipment in accordance with those defined in the contract agreement. Invoices are issued upon shipment of the Product from the VA Tech facility.

If shipments are delayed by the purchaser, payments shall become due from the date VA Tech is prepared to make shipment. If manufacture is delayed by the purchaser, payment shall be based on the contract price, as adjusted under the provisions of the price policy article, and percent of completion, and the purchaser shall reimburse any additional costs resulting from such delay. Products held for the purchaser shall be at the risk and expense of the purchaser.

#### **Delivery.**

- a) F.O.B. – point of Shipment.  
The product is delivered F.O.B. point of shipment, freight collect.
- a) F.O.C. – Destination.  
If requested by purchaser in writing at time of order acceptance VA Tech will deliver F.O.C. for a price addition to the contract.

#### **Late Payment.**

VA Tech reserves the right to apply interest charges to late payments. Charges will be applied at the Bank Base Rate +2% and will apply to the period including; payment due date until receipt of payment.

#### **Force Majeure.**

VA Tech will make every endeavour to achieve requested shipping dates. VA Tech shall not be liable for failure to perform or for delay in performance due to any cause beyond its reasonable control, including exceptional failure to perform by its sub contractors. Force Majeure shall also include all delays incurred due to export approval restrictions for any cause whatsoever and specifically including export limitations control and/or the obtaining of export licence approval for any end user destination or application.

#### **Standard Warranty.**

- a) Systems & Equipment.  
VA Tech warrants that the equipment manufactured by it will be of the kind and quality described in its specification and will be free of defects in workmanship and material. If any failure to conform to this warranty appears within one year of installation or 2000 machine hours from date of shipment, VA Tech will correct such non-conformity by repair or, at its option, by replacement of the defective parts F.O.B. VA Tech facility provided:
    - 1) Purchaser gives prompt written notice of such nonconformity, and
    - 2) The defective part is returned F.O.C. to VA Tech facilities.
    - 3) The equipment has been stored, installed (if not installed by VA Tech), operated and maintained in accordance with VA Tech recommendations and industry standard practices.
  - a) Spare Parts.
    - 1) Warranty on spare parts is limited to 90 days from the date of shipment unless agreed otherwise in writing.
- Limitation of Liability.

VA Tech, its subcontractors, its suppliers of any tier, shall not be liable in contract or in tort (including negligence and strict liability) for loss of profits or revenue, loss of use of equipment of place, cost of capital, cost of purchased or replacement power or equipment, claims of customers of the purchaser, or for any special, indirect, incidental, or consequential damages.

The remedies of the purchaser set forth herein are exclusive and the liability of VA Tech with respect to any contract, or anything done in connection therewith such as performance or breach thereof, or from manufacture, sale, delivery, resale, installation or technical direction of installation, repair or use of any equipment covered by or furnished under the contract, whether in contract or in tort (including negligence or strict liability) or otherwise, shall not exceed the price of the equipment, part service or study on which such liability is based.

#### **Patent Infringement.**

- a) Subject to the following provisions, VA Tech shall at its own expense, defend or at its option settle any claim, suit or purchased, and/or its vendees, mediate and immediate, so far as based on an allegation that any goods, material, equipment, device or article (hereinafter referred to as product) or any part thereof furnished hereunder constitutes a direct or contributory infringement of any claim of any patents. This obligation shall be effective only if purchaser shall have made all payments then due hereunder and if VA Tech is notified promptly in writing and given authority, information and assistance for the defence of said claim, suit or proceeding. In case the product or any part thereof furnished hereunder becomes the subject of a claim, suit or proceeding for infringement of any patent, or if the use of the sale of such product or part is enjoined, VA Tech shall, at its option and its own expense, either
  - 1) Procure for the purchaser the right to continue using said product or part thereof; or
  - 2) Replace it with non-infringing product; or
  - 3) Modify it so it becomes non-infringing; or
  - 4) As a last resort, remove it and refund the purchase price and the transportation and installation costs thereof.

- b) The foregoing indemnity does not apply to the following;
  - 1) Patented processes performed by the product, or another product produced thereby.
  - 2) Products supplied according to a design other than that of VA Tech and which is required by the purchaser.

#### **Licensing.**

Purchaser agrees to execute concurrent with order acceptance and license or sublicense that may be required by VA Tech as a condition precedent to the use and operation of the equipment and/or system furnished hereunder.

#### **Title – Risk of Loss.**

The product sold shall remain the property of VA Tech until fully paid for.

#### **Termination.**

Any order held or delayed or rescheduled at the request of the purchaser will be subject to the prices and conditions of sale in effect at the time of the release of the hold, delay or the reschedule and purchaser from such hold, delay or rescheduling. Any such order held, delayed or rescheduled beyond 90 days may at VA Tech option be treated as a purchaser termination. When products are ready for shipment and shipment cannot be made because of reasons beyond VA Tech control, VA Tech may submit an invoice for such product payable upon receipt thereof and shall upon written notice to the purchaser, store such products.

#### **Returning Products.**

Authorisation and shipping instruction for the return of any product must be obtained in writing by the purchaser from VA Tech before returning the product. Product must be returned with complete identification in accordance with VA Tech instructions or it will not be accepted.

#### **Packing.**

Prices exclude packing unless specifically agreed otherwise in writing at time of confirmation of order. Where special packing is required VA Tech will provide a price quotation.

#### **General.**

VA Tech shall not be responsible for any failure to comply with any Act resulting from the location, operation use or maintenance of the equipment by persons other than VA Tech.

VA Tech shall not be responsible for failure to comply with published performance standards of the equipment resulting from the use of parts or services unless specifically sourced from VA Tech.

VA Tech shall not be responsible for the safety integrity of the equipment resulting from the use of parts or services supplied by others.

The whole of the equipment supplied by VA Tech shall remain the property of VA Tech until receipt of full payment