

TERMS AND CONDITIONS OF SALE

1. CUSTOMERS TERMS AND CONDITIONS

IONSENSE products are offered for sale on the terms and conditions offered herein. Notwithstanding any terms or conditions on customer's orders, IONSENSE's acceptance of any order is expressly made conditional on customer's agreement to IONSENSE's Terms and Conditions of Sale unless otherwise specifically agreed in writing. In the absence of such agreement, commencement of performance and/or delivery shall be for customer's convenience only and shall not be deemed or construed to be acceptance of customer's terms and conditions, or any of them. Acceptance of the goods ordered hereunder by customer shall constitute acceptance of an agreement to IONSENSE's Terms and Conditions of Sale provided herein.

2. ORDERS

All orders are subject to written acceptance only at IONSENSE's main office in Saugus, Massachusetts. Accepted orders shall be construed under and governed by the laws of the State of Massachusetts.

3. QUOTATIONS

- a) All quotations are subject to the terms and conditions stated therein as well as any additional terms and conditions that may appear on the face of the Sales Quotation. In the case of a conflict between the terms and conditions stated herein and those appearing on the face of the Sales Quotation, the terms and conditions on the face of the Sales Quotation shall control.
- b) IONSENSE's prices and quotations are subject to the following:
 - 1) All price quotations are firm for thirty (30) days unless otherwise specified in writing.
 - 2) Unless otherwise stated in writing by IONSENSE, all prices quoted are F.O.B. port of entry and shall be exclusive of handling or unloading charges at destination, taxes and other charges related thereto, and customer shall report and pay any and all taxes (including, without limitation, any use tax, sales tax, or similar tax), or other charges related thereto, and shall hold IONSENSE harmless therefrom. In the event the price does not include customs duty, based upon customer's representation, and the Product shall be subject to duty, customer shall pay such duty to IONSENSE upon demand.

4. TERMS OF PAYMENT

- a) All Prices Quoted are in U.S. funds.
- b) Ninety (90%) percent due net ten (10) days after delivery of each component or accessory.
- c) Balance due net thirty (30) days after System acceptance, unless the product is in a damaged condition prior to completion of performance by IONSENSE, or if performance is delayed by customer, the balance shall be due net sixty (60) days after date of delivery or net thirty (30) days after acceptance, whichever occurs first.
- d) If delivery is delayed by customer, IONSENSE shall invoice 90%, payable net ten (10) days from the original agreed upon delivery date.
- e) Above schedule not applicable for orders less than \$2,000 which shall be due net thirty (30) days after delivery.
- f) Past due balances are assessed a service charge of 1.5% per month (18% per annum), but not more than permitted by law.

5. RISK

Risk of loss of the Products shall pass to customer upon delivery by land transportation at customer's plant or place of business. Title shall remain in IONSENSE until customer has made payment in full in accordance with the terms hereof. Customer shall cooperate fully with IONSENSE, at its expense, to execute such documents and to accomplish such filings and/or recordings thereof as IONSENSE may deem necessary for the protection of its interests in the Products furnished hereunder.

6. DELIVERY AND INSTALLATION

- a) Customer shall, at customer's expense, provide all necessary labor and materials for plumbing service, carpentry work, conduit wiring, air conditioning, other electrical service and completed premises for such installation and connection, and all of the same shall be completed and ready by time of delivery of the Product. If any special rigging, construction or structural changes of any kind are required, or if special work of any type must be done to comply with requirement of any government authority, it shall be made, done and procured by customer at customer's expense. Customer shall provide any equipment necessary for unloading at customer's plant and free access to premises of installation and suitable and safe space thereon for storage of equipment prior to installation.
- b) If conditions caused by trade union prevent performance of the above work of installation and work of installation and connection by IONSENSE employees, the Customer shall make all required arrangements with trade union to permit completion of the installation and connection of equipment, any additional cost therefore to be paid by the customer. Under such circumstances, IONSENSE's obligations shall be limited to providing engineering supervision of installation of the equipment and connection to existing utilities.
- c) Shipping dates are estimated on the basis of prompt receipt of all necessary information by IONSENSE. If customer delays in furnishing complete information, IONSENSE may extend the dates of shipment. Should delivery or installation of equipment covered by this order be delayed, in whole or in part, for any reason for which IONSENSE is not responsible, installation and demonstration of said equipment shall be deemed satisfactorily completed thirty (30) days from date of delivery or tender of delivery of equipment to customer for the purpose of determining the terms of payment. IONSENSE shall not be liable for delays in the manufacture, delivery or installation of equipment, or for failure to manufacture, deliver or install equipment, resulting from any cause or causes whatsoever beyond IONSENSE's reasonable control, including, but not limited to, acts of God, fire, labor disturbance, flood, act of the customer, war, priorities, delay in transportation, or from any other cause or causes beyond IONSENSE's reasonable control, and in no event shall IONSENSE be liable for special or consequential damages. Customer shall accept delayed shipment and permit installation when due to any cause beyond IONSENSE's reasonable control.

7. WARRANTY

- a) IONSENSE manufactured equipment is guaranteed for a period of one year, from the date of customer's first use of the instrument, against defects in workmanship and component failure. Under this warranty policy the labor necessary to repair the instrument is provided by IONSENSE at no cost to the Customer. All parts are provided except as noted below. IONSENSE reserves the right to repair or replace components at their sole discretion. The warranty does not cover components which have been damaged through misuse or accident on the part of the buyer nor does it include components which have been modified by the customer or parts that are considered consumable.
- b) **THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS AND OF ANY OTHER OBLIGATIONS OR LIABILITY ON THE PART OF IONSENSE, WHETHER IN WARRANTY, NEGLIGENCE OR OTHERWISE AND IONSENSE NEITHER ASSUMED NOR HAS AUTHORIZED ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH IONSENSE'S PRODUCTS.**
- c) In no event shall IONSENSE be liable, by reason of any cause, for prospective, consequential or special damages, economic loss, or damages resulting from loss of use of IONSENSE's Products.
- d) Non-IONSENSE Products are subject to the warranty and service policies of the manufacturer only and IONSENSE assumes no further warranty or service liability.

8. ACCEPTANCE

Each IONSENSE product shipped hereunder shall be deemed accepted by customer unless notice of defect or nonconformity is received within thirty (30) days of delivery thereof; provided that products or which IONSENSE agrees in writing to provide installation by its personnel, shall be deemed accepted by customer upon completion by IONSENSE of its applicable acceptance tests or execution of the IONSENSE acceptance form by the customer. Notwithstanding the foregoing, use of any such product by customer, its agents, employees or licensees, for any purpose, prior to acceptance thereof as aforesaid, shall constitute acceptance of the product by the customer.

9. MISCELLANEOUS

- a) **This instrument contains all agreements between the parties and no oral agreement, guarantee, promise, representation or warranty shall be binding. Customer's rights hereunder are not assignable. Any waiver, modification or extension by IONSENSE of any of customer's obligations hereunder shall not constitute a waiver, modification or extension of any of customer's other obligations hereunder. Any person executing this order on behalf of a corporation, joint enterprise, copartnership or association, hereby expressly warrants his authority to obligate such principal. The acceptance of any down payment by IONSENSE shall not be construed as an acceptance of this order by IONSENSE. Any order shall not be binding on IONSENSE until it has been accepted in writing by a duly authorized officer of JED L. I I any provision of this document is prohibited by or deemed invalid under applicable laws or regulations such provision shall be deemed omitted but shall not invalidate remaining provisions hereof.**
- b) **Each shipment or delivery hereunder shall be construed and considered as a separate sale insofar as the customer's obligation to accept and to pay for the merchandise is concerned under the terms and conditions of this contract, and customer agrees to accept and pay for each such shipment or delivery as provided herein. Should customer fail to accept or pay for each such shipment or delivery, may, without prejudice to any other lawful remedy, defer further shipments or deliveries until acceptance thereof by customer, or payment is made by customer, or at its option, IONSENSE may without liability whatsoever terminate this contract as to any unaccepted or undelivered portion thereof, as well as any other outstanding contract with customer and customer shall be responsible for any expenses and/or losses sustained by IONSENSE by so doing.**
- c) **Cancellation Policy: If a purchase order is canceled within 30 days of the receipt of a purchase order a cancellation charge of 10% of the purchase order amount shall be assessed. Cancellation of a purchase order within 90 days of receipt of a purchase order, and prior to shipment shall be assessed a cancellation charge of 30% of the purchase order amount. Beyond this orders are generally too far along in the production process to be canceled and require payment in full.**
- d) Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration in **New York City, New York in accordance with the Rules of the American Arbitration Association, and judgment, upon the award rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof. The award of the Arbitrator(s) may be entered in any Court having jurisdiction thereof. The award of the Arbitrator(s) shall be the final and contain the reasons or grounds therefor.**

(REV: November 25, 2007)