

TERMS AND CONDITIONS OF SALE

1 APPLICATION

- 1.1 These terms of sale ("**Terms**") apply to the sales of the goods specified in the Order ("**Goods**") supplied by MicrosensDx Limited ("**MicrosensDx**") to the purchaser ("**Buyer**").

2 BASIS OF CONTRACT

- 2.1 No order submitted by the Buyer shall be deemed to be accepted by MicrosensDx unless and until confirmed in writing by MicrosensDx's authorised representative ("**Order**"). The Order and these Terms form the contract for the sale and purchase of the Goods ("**Contract**").

- 2.2 These Terms apply to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. The Contract constitutes the entire agreement between the parties. The Buyer acknowledges that it has not relied on any statement, promise or representation made by or on behalf of MicrosensDx which is not set out in the Contract.

- 2.3 No Contract may be cancelled, varied or suspended by the Buyer except with the prior written agreement of MicrosensDx.

3 GOODS

- 3.1 The quantity and description of the Goods shall be set out in the Order. The specification, description and intended use of the Goods are set out in the instructions for use ("IFU") produced and made available by MicrosensDx to the Buyer.

- 3.2 The Buyer is exclusively responsible for assessing the specification of the Goods, for ascertaining the use to which they will be put and for determining their ability to function for that purpose.

- 3.3 Any drawings, descriptive matter, or advertising provided by MicrosensDx and illustrations contained in the relevant flyers are produced for the sole purpose of giving an indicative idea of the Goods described in them. They shall not form part of the Contract or have any contractual force or effect.

- 3.4 The Buyer acknowledges that changes to the specification of the Goods may be made at any time prior to delivery in order to incorporate any further developments to the Goods or to conform with any applicable laws or regulatory requirements.

4 DELIVERY

- 4.1 Any dates quoted for delivery are approximate only and MicrosensDx shall not be liable for any delay, non-delivery or shortfall in quantities delivered and in particular shall be entitled to adjust quantities delivered where, for whatever reason, insufficient stock is available to fulfil your order. Where MicrosensDx despatches Goods to the Buyer's premises or other destination stipulated by the Buyer risk remains with MicrosensDx until the Goods arrive at the Buyer's premises or the other destination but prior to unloading. Where the Buyer, or an independent carrier engaged by the Buyer, collects Goods from MicrosensDx's premises, risk shall pass to the Buyer when the Goods have been handed over to the Buyer or the Buyer's independent carrier.

- 4.2 In respect of delivery outside the U.K., the Buyer shall be responsible, at its sole cost and expense, for satisfying all import, export and customs requirements arising out of the delivery of Goods to the delivery address.

- 4.3 Title in the Goods shall not pass to the Buyer until MicrosensDx has received payment in full for the Goods. Until title in the Goods passes to the Buyer, the Buyer shall hold the Goods as MicrosensDx's fiduciary agent and bailee and shall keep the Goods properly stored, protected and insured and identified as MicrosensDx's property.

- 4.4 If the Buyer fails to take delivery of or collect the Goods, without prejudice to any other rights conferred by law, MicrosensDx shall have the right to store the Goods until actual delivery and charge the Buyer its costs, including but not limited to insurance, storage and re-delivery charges.

5 LOSS OR DAMAGE IN TRANSIT

- 5.1 In the event of Goods being lost or damaged before delivery where MicrosensDx despatches Goods to the Buyer, MicrosensDx shall be liable for loss or damage to the Goods which occurs before risk has passed to the Buyer but MicrosensDx's liability shall be limited to crediting the Buyer with the invoice value of any Goods lost or damaged or to replacement, whichever MicrosensDx shall consider the most appropriate.

- 5.2 The Buyer must notify both MicrosensDx and the independent carrier engaged by MicrosensDx in writing of any loss or damage upon delivery of the Goods within 24 hours of delivery, or in respect of non-

delivery, within 24 hours from the estimated date for delivery. The Buyer shall supply MicrosensDx with such evidence of damage upon delivery as MicrosensDx may reasonably request. The foregoing shall be Buyer's sole and exclusive remedy for damaged or missing Goods except for the express warranty rights under clause 7.3.

6 PRICES AND TERMS OF PAYMENT

- 6.1 The price of Goods (which are exclusive of applicable value added or other sales tax) shall be the price set out in the Order unless otherwise agreed between the parties in writing.

- 6.2 All prices may be increased at any time to take account of market conditions, significant increase in the costs of labour, materials or other costs of manufacture, change in delivery dates, location, quantities or specifications for the Goods or any delay caused by any instructions of the Buyer or failure of the Buyer to give MicrosensDx adequate information or instructions which may occur or are anticipated to occur between the date of quotation of the price and the date of delivery.

- 6.3 Unless otherwise stated the price excludes taxes, duties and the costs of delivery to the delivery address stated in the Order.

- 6.4 MicrosensDx may invoice Buyer upon shipment for the price and all other charges payable by Buyer. Payment shall be made within 30 days from the date of the invoice (the "Due Date"). A payment shall be considered to have been made when the full amount has been received by MicrosensDx. If the Buyer fails to make payment by the Due Date then, without prejudice to any other right or remedy available to MicrosensDx, MicrosensDx shall be entitled to; (a) withhold or suspend any further deliveries of the Goods to the Buyer or cancel any Contract, and charge the Buyer for any wasted costs and expenses; and (b) charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the interest rate set forth by the applicable law.

7 USE AND WARRANTIES

- 7.1 THE BUYER ACKNOWLEDGES AND ACCEPTS THAT GOODS [MARKETED FOR RESEARCH USE] HAVE NOT BEEN REGISTERED FOR IN VITRO DIAGNOSTIC ("IVD") USE AND THE GOODS ARE SUPPLIED ON THIS BASIS AND WITHOUT CE MARKING. NO LICENSE IS CONVEYED OR IMPLIED FOR BUYER TO USE, AND BUYER AGREES NOT TO USE, SUCH GOODS IN ANY MANNER REQUIRING REGULATORY APPROVAL, CLEARANCE OR REGISTRATION FOR IVD USE.

7.2 Microsens DX does not warrant that the Goods are suitable for any other purpose of the Buyer and the Buyer hereby indemnifies and holds harmless MicrosensDx against any claim which may be made against it by any third party arising from the use or sale of the Goods by the Buyer including any use or sale of any goods manufactured by the Buyer and incorporating any Goods supplied by MicrosensDx to the Buyer.

7.3 Subject to clause 7.4, MicrosensDx warrants that on delivery, and for a period of 12 months from the date of delivery (or within their expiry date if earlier or later), the Goods shall (i) conform in all material respects with their description; (ii) be free from material defects in material and workmanship; and (iii) be of satisfactory quality.

7.4 MicrosensDx shall not be liable for the Goods' failure to comply with the warranty set out in clause 7.3 if (i) the defect arose because the Buyer failed to follow Microsens DX's instructions as to use, testing and maintenance of the Goods; (ii) the Buyer has altered such Goods without the written consent of MicrosensDx; (iii) the Buyer has breached clause 9.3(i) or 9.3(ii); or (iv) the defect arises as a result of fair wear and tear, damage howsoever caused after delivery, negligence, or abnormal storage or working conditions.

7.5 In the event that the Goods fail to comply with the warranty at clause 7.3, MicrosensDx shall, at its sole option, replace any such Goods or credit the Buyer with the invoice value of such Goods. This shall be the sole remedy of Buyer for defective Goods.

7.6 All other warranties, whether express or implied, with respect to the Goods, including without limitation all implied warranties of merchantability or fitness for any particular purpose, are, to the fullest extent permitted by law, excluded from the Contract.

8 INTELLECTUAL PROPERTY RIGHTS

8.1 "IP Rights" means registered or unregistered patent rights, copyrights, trade mark and design rights, utility model rights, database rights, know how, and other intellectual property rights in any part of the world as may exist from time to time.

8.2 No IP Rights in the Goods or any products, samples, documents and information provided by MicrosensDx to the Buyer shall transfer to the

Buyer. Any IP Rights generated in connection with the performance of this Contract are owned by and shall continue to be owned by MicrosensDx or one of its suppliers.

9 CONFIDENTIALITY

The Buyer acknowledges that all information relating to MicrosensDx's business, including any Order and any information in, and relating to, the Goods and any IP Rights in the Goods or any part thereof, which is not public knowledge, is confidential to MicrosensDx ("**Confidential Information**"). The Buyer agrees not to, and not to authorise any third party to, disclose such Confidential Information to any other person, nor to use it for any other purpose than fulfilling its contractual obligations under this Contract and using the Goods for their intended use. The Buyer shall not, and shall not authorise any third party to, engage in, and shall indemnify MicrosensDx for; (i) any copying, adapting, reverse engineering, decompiling, disassembling, modifying or other unauthorised use of the Confidential Information, the Goods or the IP Rights in the Goods; and (ii) any separation, extraction, or isolation of components of the Goods or other unauthorised analysis of the Goods or any part thereof.

10 LIABILITY

10.1 IN ACCORDANCE WITH CLAUSE 7 AND TO THE EXTENT PERMITTED BY LAW, MICROSENSDX HEREBY EXCLUDES ANY EXPRESS OR IMPLIED WARRANTY OR GUARANTEE REGARDING RESULTS OBTAINED THROUGH THE USE OF THE GOODS INCLUDING WITHOUT LIMITATION ANY CLAIM OF INACCURATE, INVALID OR INCOMPLETE RESULTS AND DISCLAIMS ANY LIABILITY FOR ANY RELIANCE ON THE GOODS FOR SUCH PURPOSE.

10.2 MICROSENSDX SUPPLIES THE GOODS TO BE USED BY THE BUYER IN ACCORDANCE WITH THE LAW AND ALL OTHER APPLICABLE REGULATIONS AND THE BUYER ACCEPTS RESPONSIBILITY AND LIABILITY FOR ITS USE OF THE GOODS AT ALL TIMES IN ACCORDANCE WITH SUCH REQUIREMENTS.

10.3 Nothing in these Terms shall limit or exclude MicrosensDx's liability for (i) death or personal injury caused by its negligence, (ii) fraud or fraudulent misrepresentation or (iii) any liability which it would be unlawful for MicrosensDx to exclude or restrict.

10.4 Subject to clause 10.3, (i) MicrosensDx shall under no circumstances whatever be liable to the Buyer, whether in contract, tort, breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss

arising under or in connection with the Contract and (ii) MicrosensDx's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract shall in no circumstances exceed in respect of any claim, or in the aggregate, the price of the Goods as invoiced to the Buyer.

11 MISCELLANEOUS

11.1 The relationship of MicrosensDx and the Buyer is that of an independent contractor and does not constitute a partnership, agency or contract of employment and neither party will have the right to bind the other.

11.2 The Buyer shall keep and produce on request, all documentation relating to the Goods supplied to it, including such documents necessary for tracing the Goods as required by any applicable laws and in any event for a minimum period of seven years following delivery.

11.3 The Contract shall be deemed to have been suspended if MicrosensDx cannot perform its obligations under the Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for three (3) months, either party may terminate the Contract without liability to the other by giving 14 days' written notice to other party.

11.4 No delay or waiver by MicrosensDx in exercising its rights under or in connection with the Contract on one or more occasions shall be relied upon on subsequent occasions or shall limit or restrict the future exercise or enforceability of the MicrosensDx rights in question.

11.5 If any of the Terms or part thereof is or becomes invalid, the validity of the remaining provisions shall remain unaffected thereby. The parties shall substitute for the invalid provision a new provision which serves the economic purpose of the invalid provision to the furthest possible extent.

11.6 The parties to this Contract do not intend any of its terms to be enforceable by any person who is not a party this Contract.

12 GOVERNING LAW AND JURISDICTION

12.1 The Contract and all disputes arising out of or in connection with it shall be governed by and construed in accordance with English law and MicrosensDx and the Buyer agree to submit to the exclusive jurisdiction of the English courts.