

TERMS & CONDITIONS OF SALE

Interpretation:

- In these Conditions:
 - 'BUYER' means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller.
 - 'GOODS' means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions.
 - 'SELLER' means Andor Technology Plc.
 - 'CONDITIONS' means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and Seller.
 - 'CONTRACT' means the contract for the purchase and sale of the Goods.
 - 'WRITING' includes email, telex, cable, facsimile transmission and comparable means of communication.
- Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- The headings in these Conditions are for convenience only and shall not affect their interpretation.

Basis of the Sale

- The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.
- No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.
- The Seller's employees or agents are not authorized to make any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract, the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.
- Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other documentation or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

Orders and Specifications

- No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller's authorised representative.
- The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- The quantity, quality, description of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).
- Specifications and designs of the Goods are subject to change by the Seller at any time without notice to the Buyer. The Seller reserves the right to make any changes in the specification of the Goods which are required to conform to any applicable statutory or EC requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

- No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation. The minimum charge for such cancellation will be 25% of the total value of the Goods ordered.

Price of Goods

- The price of Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the order. Where the Goods are supplied for export from the United Kingdom, the Seller's published export price list shall apply. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.
- The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- The price is exclusive of any applicable value added tax (or any other similar tax), which the Buyer shall be additionally liable to pay to the Seller.

Terms of Payment

- Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods. Should the Buyer wrongfully fail to take delivery of the Goods, the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has tendered delivery of the Goods (or as the case may be) after the Seller has notified the Buyer that the Goods are ready for delivery.
- Subject to any special terms agreed in Writing between the Buyer and the Seller, the Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled, but without any other deduction) within 30 days of the date of the Seller's invoice. The time of payment of the price shall be the essence of the Contract. Receipts for payment will be issued only upon request. Invoices in respect of defective Goods (where the defect is reported to the Seller in Writing before the due date for payment of the relevant invoice in accordance with Clause 4 of the section entitled "Warranties and Liability" below) shall be payable within 30 days of the date of delivery to the Buyer of the repaired or non-defective Goods.
- If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
 - Cancel the Contract or suspend any further deliveries to the Buyer;
 - Charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 2.5% per annum above the Bank of Ireland base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

Delivery

- Delivery of the Goods shall be made to the Buyer's premises at any time after the Seller has notified the Buyer that the Goods are ready for delivery or, if some other place for delivery has been specified by the Buyer and agreed by the Seller, by the Seller delivering the Goods to that place. When the Buyer and Seller agree to delivery of the Goods other than at the Seller's premises,

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the Seller shall be under no obligation under Section 32 (2) of the Sale of Goods Act 1979.

2. Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

3. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate Contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

4. If the Seller fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

5. If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

5.1 Store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) or storage; or

5.2 Sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

6. Where the Goods are supplied for export from the United Kingdom, the Contract is subject to the Seller obtaining necessary export licenses and all other relevant consents, authorisations and permits relating to the export of the Goods.

7. Where the Goods are supplied for export from the United Kingdom, the provisions of this clause shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.

8. The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.

9. The Buyer undertakes not to offer the Goods for resale in any country designated as a sensitive destination by the Department of Trade and Industry of the United Kingdom, at or before the time the Buyer's order is placed, or to sell the Goods to any person if the Buyer knows or has reason to believe that person intends to resell the Goods in any such country.

Risk and Property

1. Risk of damage to or loss of the Goods shall pass to the Buyer:

1.1 In the case of Goods to be delivered at the Buyer's premises, at the time of delivery to the Buyer's premises.

1.2 In the case of Goods to be delivered otherwise than at the Buyer's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

2. Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other Goods agreed to be sold by the Seller to the Buyer for which payment is then due.

3. Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and Bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business.

4. Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled any time to require the Buyer to deliver up the Goods to the Seller and if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

5. The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

Warranties and Liability

1. Subject to these Conditions set out below, the Seller warrants that Hardware will be free from defects in material and workmanship for a period of 12 months from the date of shipment. Exceptions to this include: iStar models that are warranted for a period of 24 months from shipment date and Microscopy Systems that are warranted for a period of 12 months from the date of activation and acceptance. For Microscopy Systems, acceptance is expected to take place immediately following installation (plus training) if purchased and the customer will be requested to sign an acceptance form. Upon expiry of the warranty period all repairs and site visits will become chargeable.

1.1 The Seller warrants Vacuum integrity on all cameras with an UltraVac™ permanent hermetic vacuum head for a period of 5 Years. Exceptions to this include iXon3 camera models that are warranted for a 7 year period and ex-demonstrator units which are only warranted for the remainder of the standard vacuum period effective from date of first manufacture.

1.2 Items considered as consumables which include (but are not restricted to) cables, fibre optics, and filters are not covered by this warranty.

1.3 The Seller warrants that any supplied software substantially conforms to published specifications. The seller does not warrant software to be error free or that customers will be able to operate software without problems or interruptions. The standard software warranty period is 12 months from the date of shipment.

2. The above warranty is given by the Seller subject to the following conditions:

2.1 The Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specifications supplied by the Buyer;

2.2 The Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval;

2.3 The Seller shall be under no liability under the above warranty (or other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;

2.4 In respect of third party products which include materials or equipment not manufactured by the Seller, the Buyer will benefit from any additional warranty or guarantee as given by the manufacturer to the Seller.

2.5 The Buyer will be responsible for all transportation and insurance costs for returning Goods to the designated point of return stated by the Seller. The Buyer will be responsible for any import duties, taxes and customs clearance fees associated with the return of Goods. The Seller will meet the costs of transportation and insurance for Goods being returned after repair or exchange.

2.6 Components protected by the vacuum, but damaged or defective due to any cause other than vacuum, are subject solely to the standard warranty terms.

2.7 In the event that a vacuum failure is suspected (typically shown by degradation in quantum efficiency or cooling performance) the Buyer should stop using the camera immediately and contact should be made with the Seller's support representative. Continued use of the unit once vacuum

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- failure is suspected will void the warranty on the sensor and the components held inside the vacuum.
- 2.8 ICCD damage caused by laser burn, bleaching of the photocathode (brought about by over illumination of the cathode) or ion damage of the cathode (brought about by excessive numbers of photoelectrons in the Multichannel plate) will not be covered by the warranty.
- 2.9 For X-Ray cameras the Seller's standard warranty terms will apply except for the sensor and other exposed parts a) where the sensor is openly exposed (typically DO/DX models) and/or b) where the sensor is used for the direct detection of X-Ray photons (typically DY models) and/or c) where the sensor is indirectly contactable via a protruding fibre optic plate (typically DF models).
3. Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
4. Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified in Writing to the Seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract. In no event shall the Buyer be entitled to reject the Goods on the basis of any defect or failure which is so slight that it would be unreasonable for him to reject them. Only for a valid claim made during the 7 day period will the Seller cover the expense of return shipment of the Goods. Return shipment excludes any import duties, taxes and customs clearance fees associated with the return of Goods
5. Access to Service will be subject to the following conditions:
- 5.1 The Seller offers a repair and return service for defective Goods supplied under a supply Contract. Using this service the original, defective part, where possible, will be returned after repair or replaced.
- 5.2 Any Buyer that has been supplied with the Seller's Goods or have purchased via a reseller or third party, should in the first instance contact the reseller or third party supplier for support.
- 5.3 Any Buyer who has purchased directly from the Seller can access the Service Desk via the following link:
http://www.andor.com/contact_us/support_request/
- 5.4 On contacting the Service Desk the Buyer should state if they are pursuing a warranty claim. Service Desk personnel will then work with the Buyer to determine if the reported defect meets the criteria under the supply Contract for warranty remediation. This process may involve the Buyer performing some diagnostic actions in relation to the problem.
- 5.5 Initial diagnostic actions may require an Internet connection to facilitate remote software control of a product. In the event that an Internet connection for this purpose cannot be established by the Buyer, the Seller reserves the right to refuse the return of a product. In the case of Microscopy System components, the Seller reserves the right to refuse an on-site visit if an internet connection is not available for diagnostic purposes.
- 5.6 To be eligible for warranty repair or replacement, the Seller's supplied product must be suffering a defect which meets the criteria set out in the supply Contract, and must be within the specified warranty period. Services such as upgrades to hardware or software are excluded from the scope of this service.
- 5.7 All returns to the Seller must be approved in advance. For Hardware remediation, the Service Desk will issue a "Return Material Authorisation" (RMA) number, which must be clearly displayed on the outside of the packaging. The Buyer will be required to complete a mandatory on-line Decontamination form certifying that the Goods are free from harmful contaminants via the following link:
<http://www.andor.com/feedback/decontamination/>
The Buyer will be required to submit a mandatory decontamination form for each RMA that has been issued. Work will not commence on any returned products until the Seller has received a correctly completed Decontamination form.
- 5.8 All Goods being returned must be packaged in accordance with the Sellers packing instructions, including anti-static precautions. Details can be found via the following link:
http://www.andor.com/company/packaging_instructions/
Failure to do so may invalidate warranty on any claims arising from unsuitably packaged products.
6. Where any valid claim in respect of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer. The Seller reserves the right to supply a refurbished product in the event that a product cannot be repaired or must be exchanged or a repair is not economically viable. In the event of replacement, the replacement becomes the property of the Buyer on an exchange basis.
- 6.1 In the case of misuse, the Buyer will be contacted to decide the course of action including a) scrapping the part or product, b) return of the product unrepaired c) offer a replacement with a new or refurbished part which will be invoiced at full price.
- 6.2 For Microscopy System components, the need for an on-site visit to facilitate a repair will be determined by the Seller. The Seller will be responsible for all of the associated costs with providing the repair within the warranty period.
- 6.3 Returns made do not include root cause analysis.
- 6.4 Under the warranty provisions of the supply Contract the Seller does not provide the Buyer with a guaranteed service level agreement for services offered.
- 6.5 For Goods returned during the warranty period for repair, the Seller will add up to 30 days warranty extension or equal to the return period, whichever is less. This excludes third party products.
7. Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or against otherwise) which arise out of or in connection with the supply of the Goods, or their use or resale by the Buyer and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.
8. The Seller shall not be liable to the Buyer 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 Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:
- 8.1 Act of God, explosion, flood, tempest, fire or accident;
8.2 War or threat of war, sabotage, insurrection, civil disturbance or requisition;
8.3 Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
8.4 Import or export regulations or embargoes;
8.5 Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of third party);

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- 8.6 Difficulties in obtaining raw materials, labour, fuel, parts or machinery;
8.7 Power failure or breakdown in machinery.

Indemnity

1. If any claim is made against the Buyer that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of any drawing, design or specification supplied by the Buyer, the Seller shall indemnify the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:

- 1.1 The Seller is given full control of any proceedings or negotiations in connection with any such claim;
- 1.2 The Buyer shall give the Seller all reasonable assistance for the purposes of any such proceedings or negotiations;
- 1.3 Except pursuant to a final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Seller (which shall not be unreasonably withheld);
- 1.4 The Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under such policy or cover (which the Buyer shall use its best endeavours to do);
- 1.5 The Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and costs (if any) awarded in favour of the Buyer which are payable by, or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and
- 1.6 Without prejudice to any duty of the Buyer at common law, the Seller shall be entitled to require the Buyer to take such steps as the Seller may reasonably require to mitigate or reduce any such loss, damages, costs, or expenses for which the Seller is liable to indemnify the Buyer under this clause.

Insolvency of buyer

1. This clause applies if:
 - 1.1 The Buyer makes any voluntary arrangement with its creditors (within the meaning of the Insolvency (Northern Ireland) Order 1989) 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 amalgamation or reconstruction) or;
 - 1.2 An Encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
 - 1.3 The Buyer ceases, or threatens to cease, to carry on business; or
 - 1.4 if the Buyer causes or is subject to any event, with respect to which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in 1.1 to 1.3 above; or
 - 1.5 The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
2. If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

The Waste Electronic and Electrical Equipment Regulations 2006 (WEEE)

Where appropriate, Andor has labelled its electronic products with the WEEE label (crossed out wheelee bin) to alert our customers that products bearing this label should not be disposed of in a

landfill or with municipal waste. If you have purchased Andor-branded electrical or electronic products in the EU after August 13, 2005, and are intending to discard these products at the end of their useful life, the Seller is happy to assist. The cost for the collection, treatment, recycling, recovery and sound environmental disposal of these Goods at the end of its useful life has not been included in the price. If you require help/assistance regarding the disposal of this equipment please refer to our website, or contact our sales team at which point instructions and a quotation can be provided.

A copy of the Company's WEEE Policy can be viewed at the Company website www.andor.com

General

1. The Seller may perform any of its obligations or exercise any of its rights hereunder by itself or through any such other member of any group of companies of which it is a member, provided that any act or omission of any such other member shall not be deemed to be the act or omission of the Seller.
2. Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this position to the party giving notice.
3. No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
4. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
5. Any dispute arising under or in connection with these Conditions or the sale of the Goods shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of the Law Society of Northern Ireland, in accordance with the Arbitration Act 1996.
6. The Contract shall be governed by the laws of Northern Ireland, and the Buyer agrees to submit to the non-exclusive jurisdiction of the courts of Northern Ireland.