

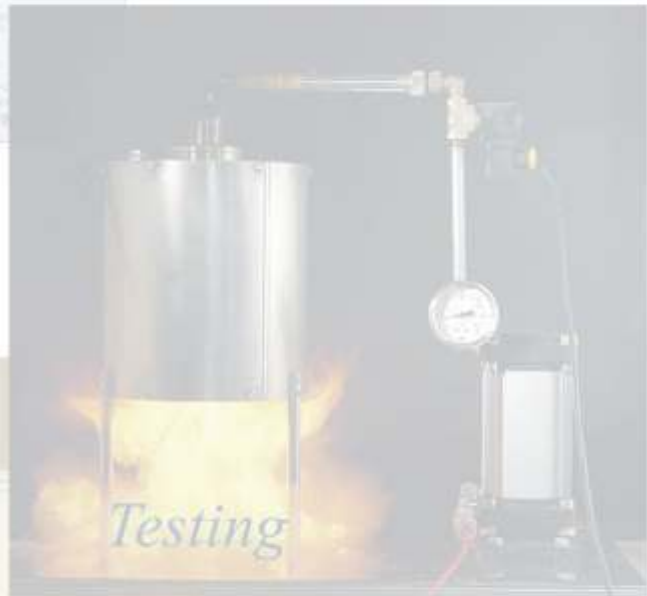
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*Consultancy*



## Digital Documentation



*Testing*



*Training*

**CHILWORTH TECHNOLOGY LTD – STANDARD CONDITIONS OF BUSINESS**

**PRELIMINARY**

- a) In these Conditions of Business the Company shall mean Chilworth Technology Limited.
- b) These conditions shall apply to any Agreement or Contract ("the Agreement") between the Company and any person, firm or company ("the Client") placing an order with the Company in respect of any consultancy, reporting, testing, research and development or any other services ("the Services") or components, products or other items ("the Products").
- c) These conditions shall be subject to the Special Conditions (if any) attached hereto and shall be modified accordingly.

**2. ORDERS**

- a) The Company will be under no liability for any order received until the order is confirmed by the Company in writing. Subject to the above, the Company will proceed with any verbal orders received at the Client's own risk and upon the terms contained herein.
- b) If the order is for Services relating to materials or equipment which require particular safety procedures to be observed or if the Company shall so request, the Client shall deliver all safety information relating to such materials or equipment and until receipt of such safety information the Company will not be obliged to commence the Services.
- c) If at any time during the performance of the Services the Company shall determine that the Client's materials or equipment are unsafe whether used in accordance with the safety information or not (as to which the Company's discretion shall be absolute) the Company may (without prejudice to the terms of Clause 10 below) cancel the Agreement without notice, without effecting the rights of the Company to receive payment for the Services performed up to the date of cancellation.
- d) An accepted order may only be cancelled or varied with the Company's consent and the giving of this consent shall not in any way prejudice the Company's right to recover from the Client full compensation for any loss or expense arising from such cancellation or variation.
- e) Any offer, order, acceptance, sale and / or delivery or any conduct in confirmation of any transaction will be subject to these terms and conditions which are the only basis upon which the Company does business and shall prevail (except in the case of a Prevailing Agreement as defined in Clause 18) notwithstanding any printed or other conditions contained or referred to in any purchase order or other document prepared by or on behalf of the Client.
- f) No other agreement, representation, promise, undertaking or understanding of any kind unless expressly confirmed in writing by the Company shall add to, vary or waive any of these terms and conditions.
- g) Any date or time given by the Company to the Client for the delivery of Products or performance of Services is an estimate only. While the Company will always endeavour to meet dates or times given or specified by either party, no such dates or times shall be binding on the Company.

**3. PRICES**

- a) Notwithstanding any price specified in the order acceptance the price of the Services or Products shall be that applicable on the date of order.
- b) Unless otherwise so specified by the Company any quotation of the Company shall expire thirty days from the date of issue and may be modified or withdrawn at any time prior to the date of the Client's order.
- c) The Company shall have the right at any time to revise prices to take account of increase in costs including (without limitation) costs of labour, materials, carriage or overheads.
- d) Unless otherwise indicated the prices specified in the order acceptance do not include any applicable service, sales, use, ad valorem or personal property taxes arising out of the performance of the Services or supply of Products hereunder, all of which taxes are the sole liability of the Client.

**4. PAYMENT**

- a) Unless otherwise agreed in writing payment shall be made at the invoice price without deduction within 30 (thirty) days of receipt of the invoice.
- b) Failure by the Client to pay in accordance with the provisions of this Clause 4 shall entitle the Company, without prejudice to its right to damages, to suspend any outstanding Services or delivery of any Products or to cancel the Agreement.
- c) In addition to the Company's rights under sub-clause (b) the Company shall be entitled (without prejudice to any other right or remedy) to charge interest on any amounts outstanding (both before and after judgement) at the rate of 4 per cent above Barclays Bank plc base rate for the time being in force, compounded on a daily basis until payment in full is made.

- d) Payments by letter of credit shall only be made with the Company's written consent and if such consent is given all costs including bank charges shall be for the account of the Client and all letters of credit shall be:-
  - i) In favour of the Company;
  - ii) Consistent with the provisions of these terms and conditions;
  - iii) In sufficient amounts and for the period necessary to meet with all payment obligations hereunder;
  - iv) Irrevocable, transferable and divisible; and
  - v) Issued or confirmed by a Bank in the United Kingdom acceptable to the Company prior to the date of delivery, within fifteen days after acceptance of the order.

**5. TITLE**

- a) Where the Agreement relates to sale of Products then notwithstanding delivery to the Client legal and beneficial ownership in the Products shall remain with the Company, including all goods and items made therefrom whether by incorporating the Products or affixing the Products to other goods or equipment, until the Client has paid the price (whether or not due, invoiced or ascertained at the date of delivery) and any delivery or other ancillary charges and / or local or governmental impositions payable in respect of the Products ("the Value") and all other outstanding amounts due or to become due or to become due to the Company in respect of this or any other business transaction between the parties ("the outstanding account").
- b) Until such payment the Client shall have no right, without the written consent of the Company, to sell the Products to any third party and shall take all necessary measures for the protection of the Products including insurance thereof with an Insurance Company approved by the Company for an amount at least equal to the Value and the outstanding account, and the Products shall, unless agreed to the contrary by the Company, be clearly marked, and stored separately, as being the property of the Company.

**6. CLAIMS**

- a) **Inspection and Faults**  
The Client shall examine any Products delivered for any obvious damage or shortage and shall make any claim in respect of the Products within 7 days of delivery or, in cases of non-delivery within 7 days of the estimated delivery date.
- b) **Guarantee**  
Subject to the Client complying with the foregoing paragraphs, and without prejudice Clause 10 below, the Company will repair or replace (at its sole option) products that fail due to any fault of the Company at any time within three months of the delivery date. This guarantee does not confer any rights other than those expressly set out in this Clause and does not extend to any claim for consequential loss or damage. The Company's decision on all matters relating to claims under this guarantee shall be final.

**7. FORCE MAJEURE**

- The Company shall be under no liability for any delay or failure to perform the Services or deliver the Products in the event that the performance, manufacture, supply or do delivery of the Services or Products (as appropriate) is prevented or delayed by any act or circumstances beyond the Company's reasonable control including but not limited to an Act of God, legislation, war, fire, drought, failure of power supply, lock-out, strike or other action taken by employees in contemplation or furtherance of a trade dispute or owing to any inability to procure materials required for their performance of the contract and where possible the Company shall resume performance of its obligations as soon as the cause, prevention or delay is removed.

**8. WARRANTIES AND EXCLUSIONS**

- a) **General**  
The Company warrants that it will undertake the Services and provide Products with reasonable care and skill.
- b) **Specifications**  
Whilst the Company will use its reasonable endeavours to conform to the proposals submitted to the Client and without prejudice to Clause 8(a) above or any terms implied by law, no warranties as to any specifications, result or data are given or implied.
- c) **Safety Standards**  
The Client hereby acknowledges and agrees that the Company accepts no liability whatsoever for the failure in any way of the Services to comply with any safety standards (whether British, European or international) and the Client hereby agrees to indemnify and keep indemnified the Company from and against any claims, costs, demands and liability for any such failure except in circumstances where the Company has been manifestly negligent in the provision of the Services. It is the sole responsibility of the Client to provide all safety information referred to in Clause 2(b) above.

- d) **Indemnity**  
Without prejudice to Clause 8(a) above or any terms implied by law the Client shall indemnify and hold the Company, its agents and employees, harmless from and against all damages, judgements, costs or other expenses (including reasonable legal fees) incurred as a result of any claim or charge made against the Company, or the Client in connection with the products or services rendered to the Client by the Company except such damages, judgements, costs or expenses caused by or resulting from the Company's breach of this Agreement or its negligence.
- e) **Testing results**  
Where the Services comprise the testing of any Item or process, the results of or any report whether verbal or written in connection with such tests are not to be taken as a certificate to be relied upon by any third party but merely as a confidential report from the Company to the Client
- f) **Manufacturer's Warranty**  
Where Products have not been manufactured or assembled by the Company, the Company will use reasonable endeavours to procure that the benefit of any warranty or guarantee given by the manufacturer relating to such Products passes to the Client PROVIDED THAT sub-clause 8(f) below shall apply notwithstanding the existence of such manufacturer's warranty or guarantee.
- g) **Limitation of Liability**
- i) Subject to Section 6 of The Unfair Contract Term Act 1977 and with the exception of those implied by Section 12 of the Sale of Goods Act 1979 or under Section 2 of the Supply Of Goods and Services Act 1982 all conditions and warranties whether express or implied by Statute or Common Law and whether oral or written are (unless specifically confirmed by the Company in writing) excluded;
- ii) In no event will the Company be liable to the full extent permitted by law in any way to the Client or others, subject to the provisos set out in Clause 8(g)i) and except in the case of death or personal injury caused by the Company's negligence, for any indirect, special or consequential damage of any nature, whether foreseeable or not, regardless of whether the Company had been advised of the possibility of such damages. In no event will the Company's liability in connection with the Products and Services, whether caused by, but not limited to, non-performance, defects, errors, breach of warranty or otherwise, exceed the value of the Company's insurance.
- h) **Repair and Replacement**  
In the event of the Client making any claim under this Agreement, the Company shall have the option at its discretion of repairing or replacing defective Services or Products and the Client shall be obliged to accept such repaired or replaced Services or Products in full settlement of any and all other claims in respect of the Services without any payment being due from the Company to the Client.
9. **INTELLECTUAL PROPERTY RIGHTS**
- a) Where the carrying out by the Company of the Services results in the creation of any design, report, idea, concept or any other matter in which any intellectual property right is capable of subsisting (whether copyright, design copyright or anything which is or may be patentable) then any such rights shall vest in the Company absolutely.
- b) For the avoidance of doubt, the Company and any officers and employees of its Group shall have the right, to use any research or reports, created by the Company in the performance of the Services for the purposes of their own non-commercial research, training and technical reference (the "Permitted Purpose"). In these conditions "Group" shall in relation to the Company mean, the Company and any company of which it is a subsidiary (its holding company) and any other subsidiaries of any such holding company.
10. **WAIVER, SEVERANCE AND SURVIVAL**
- a) Any indulgence granted by the Company to the Client and any failure by the Company to insist upon strict performance of these terms and conditions shall not be deemed a waiver of any of the Company's rights or remedies nor be deemed a waiver of any subsequent default by the Client.
- b) The invalidity in whole or in part of any clause in these terms and conditions shall not affect the validity of the remainder of such clause or these terms and conditions.
- c) Limitations of liability and indemnities described in this Agreement shall survive the termination of this Agreement.
11. **ASSIGNMENT**  
The Agreement is not assignable by the Client without the written consent of the Company and is between the Company and the Client as principals but the company may without consent assign or sub-contract all or any of its rights and obligations hereunder.
12. **TERMINATION**
- a) If the Client becomes insolvent or in the reasonable opinion of the Company is likely to go into bankruptcy, receivership administration or liquidation, or makes default in or commits a breach of the Agreement, the Company may forthwith on written notice to the Client terminate the Agreement without incurring liability to the Client and without prejudice to the Company's rights which may have accrued up to the date of termination.
- b) This Agreement may be terminated by either party with or without cause upon thirty (30) days prior written notice to the other party. All outstanding invoices are to be paid within ten (10) days of the termination date.
- c) This Agreement shall be effective commencing on the Effective Date and shall continue in effect until the earlier of (1) the completion of the Services or (2) termination pursuant to subsection (b).
13. **CONSTRUCTION**  
No variation or addition to these Conditions shall be effective unless contained on the face of the order or acceptance or in a written instrument signed by a Director or a duly authorised officer of the Company and a copy of such instrument is annexed to the order acceptance.
14. **GOVERNING LAW**  
The interpretation and application of the Agreement shall be in accordance with English law and the Customer and the Company hereby irrevocably submit the jurisdiction of the English Courts.
15. **ARBITRATION**  
As a condition precedent to any right of action hereunder, any dispute or difference between the parties in connection with or arising out of this Agreement shall be referred to and determined by arbitration under the rules of a competent Arbitration Association.
16. **INDEPENDENT CONTRACTOR**  
In providing its Services, the Company shall be an independent contractor, and the Client will have no right to exercise supervision as to the manner or method by which the Company provides its services, except that the Company's employees and representatives shall adhere to the safety policies and procedures provided by the Client while on the premises of the Client.
17. **CONFIDENTIAL INFORMATION**
- a) The Client and the Company each acknowledges that during the term of this Agreement each will acquire confidential information relating to the business and operations of the other, including without limitation, each party's methods of doing business, and each party's products, processes and customer lists (collectively the "Confidential Information"). Each party hereby acknowledges that ALL OF THE OTHER PARTY'S Confidential Information is valuable, unique and constitutes trade secrets and proprietary information and, upon the termination of this Agreement, each party's knowledge of the other party's Confidential Information will enable it (or any other individual, company or person with which it is associated in any manner) to compete with the other party in a manner likely to cause irreparable harm upon the disclosure of such Confidential Information. Accordingly, subject to Clause 17 (b), each party irrevocably represents, warrants, and covenants to the other party that it shall not disclose, directly or indirectly, any of the Confidential Information to any individual, firm, company, or other entity and shall not use any Confidential Information in any manner whatsoever except as permitted under this Agreement, unless such Confidential Information becomes a matter of public record or as information made available to the public, or unless legally required to do so. This obligation as to confidentiality and non-use shall survive the Terms of this Agreement.
- b) The Company may disclose Confidential Information to such officers and employees of its Group as are strictly necessary for the Permitted Purpose set out in Clause 9(b).
18. **WHOLE AGREEMENT**
- a) Except where these conditions are incorporated as part of an Agreement which expressly states that the terms of such Agreement shall prevail (a "Prevailing Agreement") it is acknowledged and agreed that these terms and conditions including the "Documents" shall supersede all prior terms and conditions, representations, arrangements, understandings and agreements between the Parties relating to the subject matter hereof and shall constitute the entire complete and exclusive arrangement and understanding between the parties hereto
- b) The parties irrevocably and unconditionally waive any right they may have to claim damages for any misrepresentation, arrangement, understanding or agreement not contained in these conditions or a Prevailing Agreement or for any breach of any representation not contained in these conditions or a Prevailing Agreement (unless such misrepresentation or representation was made fraudulently)
- c) It is further acknowledged and agreed that no representations, arrangements, understandings or agreements (whether written or oral) made by or on behalf of any of the parties have been relied upon other than those expressly set out or referred to in these conditions or a Prevailing Agreement.