Terms

Delivery to the transporting carrier shall constitute delivery to the Purchaser and title shall pass at that point, except that a security interest in the product(s) shall remain in ChemScan, Inc. (Company) regardless of mode of attachment to realty or other property, until the full price has been paid in cash. The Purchaser agrees to do all acts necessary to perfect and maintain said security interest, and to protect Company's interest by adequately insuring the product(s) against loss or damage from any external cause with Company named as insured or co-insured.

Partial shipments may be made and proportionate payments shall become due and payable on partial shipments. Company shall select method of transportation and route. When delivery terms are FOB destination or freight allowed to destination, "destination" means common carrier terminal point (within the continental United States, excluding Alaska and Hawaii) nearest the final destination.

The target shipment date is subject to change due to delay on the part of the Purchaser in supplying the Company with necessary data or any changes therein at the Purchaser's instance, and to delays caused by fires, floods, strikes, accidents, civil or military authority, delays by suppliers of material and any other cause beyond the Company's reasonable control. Delay in delivery for any cause shall in no event subject the Company to any special or consequential damages.

If at any time in Company's judgment Purchaser may be or may become unable or unwilling to meet the payment terms specified, Company may require satisfactory assurances of full or partial payment as a condition to commencing or continuing manufacture or payment in advance of shipment, or may, if shipment has been made, recover the product(s) from the carrier.

If payments are not made in conformance with the terms specified herein, the contract price shall, without prejudice to the Company's right to immediate payment, be increased by 1% per month on the unpaid balance, but not to exceed the maximum amount permitted by law.

If at any time in ChemScan's judgment Purchaser may be or may become unable or unwilling to meet the terms specified, ChemScan may require satisfactory assurances of full or partial payment as a condition to commencing or continuing manufacture of in advance of shipment, or if shipment has been made recover the product(s) from the carrier.

Cancelation Prior to Shipment - In the event that Purchaser cancels the order prior to shipment of the instrument and accessories, all amounts previous paid by Purchaser shall be retained by ChemScan and Purchaser shall be responsible for payment of a cancelation fee equal to the amounts incurred by Company for time and materials up to the date of cancelation at Company's then-current rates. Company will invoice Purchaser within 10 days of cancelation and Purchaser shall pay the invoice within 20 days. Notwithstanding the foregoing, the cancelation fee shall not exceed the total price set forth herein.

Cancelation After Shipment – In the event that Purchaser cancels the order following the shipment, Purchaser shall pay to Company the full amount of the price set forth in this agreement.

The cancelation fees set forth above shall be deemed to be liquidated damages and not a penalty, the parties acknowledging that actual monetary damages that may be incurred by Company in the event of cancelation by Purchaser are very difficult to ascertain.

Warranty

The Company warrants the product(s) on date of delivery to Purchaser to be of the kind and quality described herein, merchantable, and free of defects in workmanship and material.

There are no warranties, express or implied, except the foregoing. The provisions in specifications hereto attached, if any, are descriptive. There is no warranty as to the performance of the product(s) except as may be set forth in a separate performance warranty attached to this proposal.

The foregoing warranties are expressly conditioned upon the ambient operating temperature at no time exceeding 120oF. If temperature at any time shall exceed 120oF, all warranties shall be null and void and the Company shall have no responsibility or liability with respect to the product(s).

The Company shall not be responsible for the deterioration of any kind of the product(s) to corrosion, erosion, or any other cause, regardless of when such deterioration occurs after leaving the Company's premises.

Any item of the product(s) which has not been manufactured by the Company shall be covered only by the express warranty of the manufacturer thereof.

THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS CONTRACT. THE EXCLUSIVE REMEDY FOR ANY BREACH OF WARRANTY OR CLAIM IN TORT OR CONTRACT IS AS STATED HEREINAFTER.

IF PAYMENTS ARE NOT MADE ON TIME AND IN FULL, ALL WARRANTIES SHALL BE NULL AND VOID AND THE COMPANY SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT TO THE PRODUCTS.

IF THE PRODUCT(S) ARE NOT INSTALLED, OPERATED AND MAINTAINED IN CONFORMANCE WITH THE COMPANY'S INSTRUCTIONS, ALL WARRANTIES SHALL BE NULL AND VOID AND THE COMPANY SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT TO THE PRODUCTS.

If, within one year from the date of initial operation, but not more than 18 months from date of shipment by Company of any item of the product(s), Purchaser discovers that such item was not as warranted and that such defect interferes with the mechanical operation of the product(s), and promptly notifies the Company in writing thereof, the Company shall remedy such nonconformance (but only if the Company, in its sole judgment, determines that such item or product(s) was not as warranted and that such defect interferes with the mechanical operation of the item or product(s), and in the event of a dispute, the Company's decision shall be final) by, at Company's option, adjustment of the purchase price or furnishing or repairing, depending upon which alternative is most in accord with scientific or engineering principles, without charge, FOB origin, a similar part to replace any part of the product(s). Purchaser shall assume all responsibility and expense for removal, reinstallation, and freight in connection with the foregoing remedies. The Company shall have the option of requiring the return of the product(s), transportation prepaid by purchaser, to establish the claim, or to make repairs or replace parts, or both. No allowance will be made for repairs or alterations unless made with the Company's consent or approval. Company will not be responsible for work done, apparatus furnished or repairs made by others, without prior authorization by the Company.

Replacement parts furnished by the Company shall be warranted as new parts are herein warranted. The same conditions and limitations with respect to the repair or replacement of such replacement item or product(s), as apply to new product(s), shall apply to such replacement parts. Company shall have the right of disposal of parts replaced by it. Unused spare or replacement parts may be returned FOB factory for credit less a 25% handling and restocking charge.

Company's liability to Purchaser relating to the product(s), whether in contract or in tort, arising out of warranties, representations, instructions, installations, or defects from any cause, shall be limited exclusively to adjusting the purchase price or correcting the product(s) and under the conditions as aforesaid. The Company shall not be liable for any special or consequential damages resulting in any manner from the furnishing or use of the product(s), whether in connection with any erosive or corrosive gases or liquid or otherwise.

Patents

Company shall pay costs and damages finally awarded in any suit against Purchaser or its vendees to the extent based upon a finding that the design or construction of the product(s) as furnished infringes a United States patent (except infringement occurring as a result or incorporating a design or modification at Purchaser's request) provided that Purchaser promptly notifies Company of any charge of such infringement, and Company is given the right at its expense to settle such charge and to defend or control the defense of any suit based upon such charge. This paragraph sets forth Company's exclusive liability with respects to patents.

Confidential Information and Improvements

Purchaser will keep confidential and will not use or reproduce any information received from Company in connection with the Proposal or the use, operation nor maintenance of the product(s) except with the written consent of Company. Purchaser will not copy or otherwise reproduce any written or printed material or drawings furnished to Purchaser by Company in connection with the product(s). Purchaser will return all such material to Company if the Proposal is not accepted. Purchaser will not copy the product(s) or make any design drawings of the product(s) and will not permit others to copy or make design drawings of the product(s). Company shall have a royalty-free license to make, use and sell, any changes or improvements in the product(s) invented or suggested by Purchaser or its employees.

General

Company shall not in any event be liable for indirect, special, incidental, or consequential damages, or penalties, nor does it assume any liability of Purchaser or others for injury to persons or property.

The laws of the State of Wisconsin shall govern the validity, interpretation and enforcement of this contract.

This document and the other document specifically referred to as being a part thereof, constitute the entire contract on the subject matter, and it shall not be modified except in writing signed by both parties. Assignment may be made only with written consent to the other party.