

Eco-Mist Biotechnics Limited

Terms and Conditions of Sale

Valid from: April 2014

- 1 **Entry into force and scope**
- 1.1 With effect as of 1 August 2009, all our sales and services as well as the contracts between Eco-Mist Biotechnics and its customers are subject exclusively to these Terms and Conditions of Sale insofar as they have not been expressly modified by way of written arrangements. Customers own terms do not become a part of the contract and have no effect whatsoever. Insofar as Eco-Mist Biotechnics quotations deviate from these Terms and Conditions, the former shall have priority
- 2 **Eco-Mist Biotechnics Price List and Quotations**
- 2.1 Our price lists validity is limited in time as set out in the price lists.
- 2.2 The validity of our quotations is limited to 30 days as from the date of the quotation and in any case by the scope of validity of the relevant price lists.
- 2.3 Quotations are valid for the addressee only.
- 3 **Prices**
- 3.1 The prices stated by Eco-Mist Biotechnics are in £ Sterling.
- 3.2 The relevant price is the one applicable on the day the order is registered.
- 3.3 The costs for taxes (incl. VAT), charges and duties of all kinds shall be borne by the customer.
- 4 **Terms of payment, payment deadlines, liability**
- 4.1 Invoices are payable within 30 days as of invoice date, no deductions allowed. Payments made by cheque are not deemed completed until the relevant amount has been credited to our account. Eco-Mist Biotechnics does not accept bills of exchange, 'WIR' credits or any other unusual means of payment
- 4.2 Eco-Mist Biotechnics may at any time demand advance payment or an irrevocable letter of credit or insist on other modes of payment.
- 5 **Default and collection**
- 5.1 The customer is in default upon expiry of the payment deadline specified above. Default interest of 6% is due as of this date. We understand and will exercise our statutory rights to interest under the Late Payments of Commercial Debts (Interest) Act 1998 if we are not paid according to agreed credit terms.
- 5.2 In addition, any costs Eco-Mist Biotechnics may incur in the reflection of amounts due, including any legal costs, shall be refunded to Eco-Mist Biotechnics.
- 5.3 The customer's payment default shall moreover entitle Eco-Mist Biotechnics to stop all further performance, to withdraw from the contract to demand the return of the supplied products or to immediately collect such products after issuing written notification and to immediately terminate associated contracts without any further formality. Eco-Mist Biotechnics shall also be entitled to claim compensation in this context.
- 6 **Scope of delivery, delivery times, partial deliveries and return of packing materials**
- 6.1 Supplementary technical specifications, assembly, fitting work, intellectual property rights of any kind, environment or any other tests extending beyond the Eco-Mist Biotechnics standard tests, certifications, packaging beyond Eco-Mist Biotechnics' standard packaging are not included in the scope of delivery. Any services performed by Eco-Mist Biotechnics in these areas will be charged for separately.
- 6.2 The delivery times we specify are target times and not binding promises. The customer cannot derive any claims whatsoever against Eco-Mist Biotechnics from delays or non-delivery no matter what their cause.
- 6.3 Partial deliveries are permissible they will be invoiced as executed.
- 6.4 Eco-Mist Biotechnics are willing to accept the return of packing materials from its deliveries, any costs incurred in the process shall be borne by the customer.
- 6.5 Any orders being cancelled, for reasons as stated in clause 6.2 will be subject to a 15% re-stocking charge.
- 7 **Transport, assumption of risk, liability and compliance with control regulations**
- 7.1 The customer is responsible for transport and transport documents, means and routes. Eco-Mist Biotechnics will organise the transport at the customer's request.
- 7.2 The customer shall provide insurance; Eco-Mist Biotechnics will organise appropriate insurance cover at the customer's request.
- 7.3 The costs for transport (incl. loading/unloading) and insurance shall be borne by the customer.
- 7.4 Risk in respect of loss, destruction and damage as well as liability for the products shall be borne by the customer as soon as they have been set aside for transport/despatch. If the products should return to Eco-Mist Biotechnics, for any reason whatsoever, risk and liability shall remain with the customer until the products have been unloaded at Eco-Mist Biotechnics.
- 7.5 In all cases, and insofar as not bindingly prescribed by the applicable law, the customer shall be solely responsible for compliance with all export, import, transit and control regulations and formalities.
- 8 **Inspection and notification of defect.**
- 8.1 The customer shall inspect the products (quality and quantity) at his own expense.
- 8.2 In case of apparent defects the customer shall notify us immediately after receipt of the products (or, in cases where assembly or fitting is effected by or by order of Eco-Mist Biotechnics, immediately upon conclusion of such work), in writing and with a detailed description of the defect. The carrier and the forwarder shall also be notified in writing of any transport damage and delivery shortfalls.
- 8.3 Hidden defects shall be notified in writing immediately after discovery, with a detailed description.
- 8.4 Should the customer fail to provide due and proper notification of defect, the product shall be deemed approved without reservation.
- 9 **Guarantee (warranty) and liability.**
- 9.1 Eco-Mist Biotechnics guarantees that its products are free of material and manufacturing defects as supplied by the manufacturer.
- 9.2 Our guarantee commences on the day of despatch (or, in case of assembly or fitting by or by order of Eco-Mist Biotechnics, as of completion of such work) and remains valid for the guarantee period agreed on in the individual contact between Eco-Mist Biotechnics and the customer, or if no such guarantee period has been specified, for a period of 12 months for appliances and 3 months for all other products, always subject to the rules as set out below:
- 9.3 The following special provisions apply to the products listed below: The guarantee is valid on the day of despatch only for consumables and *utensils* such as chemicals, glass, plastics, etc.
- 9.4 Our guarantee is limited, at our discretion, to repair or replacement of the defective products or components, or to refund of the material value of the products or components that were not replaced. Eco-Mist Biotechnics is free to provide a replacement product for the repair or replacement period.
- 9.5 Replacement or repair does not cause any extension of the guarantee period. The original guarantee period simply continues until its normal expiry date.
- 9.6 The customer loses any and all claims: a) If the products or their components are not connected, assembled, fitted, installed, used or maintained in a due and proper manner, for the designated purpose and according to the data provided in the operating instructions and/or the test reports (Material Safety Data Sheets) or according to the relevant specifications; b) If the damage was caused by violence (e.g. accident); c) If the products or product components (incl. electronic systems and software) are not adjusted, modified, repaired or maintained by us or by specialists authorised by us; d) If replacement parts other than original parts supplied by Eco-Mist Biotechnics are used; e) If serial numbers are changed, deleted or removed.
- 9.7 A customer asserting guarantee claims must prove that the defect was caused by material or manufacturing faults.
- 9.8 A customer asserting guarantee claims shall provide Eco-Mist Biotechnics with written notification containing the following details: the product and its serial number the day of despatch and the nature of the problem. A copy of the original invoice must also be enclosed. Subsequently, the directives issued by Eco-Mist Biotechnics in respect of procedures to be applied shall be observed. In addition, the following provisions shall apply:
 - a) If the product is to be returned to Eco-Mist Biotechnics, the customer is responsible for correct and proper packaging; the customer bears the transport risks. Eco-Mist Biotechnics, upon request, will organise transport and insurance both ways and will pay the relevant costs as follows: all costs for end customers, half of costs for distribution partners, should the customer require a special mode of transport (e.g. express shipping) he must pay any additional costs thereby incurred.
 - b) Eco-Mist Biotechnics will not accept products returned without notification of the original invoice number, signed Collection Note and, where applicable, a signed and completed Decontamination Declaration. Should the customer proceed without the required authorisation he shall bear any costs thereby incurred.
 - c) If the products or product components are contaminated by radioactive, microbiological or any other substances, the customer shall notify Eco-Mist Biotechnics accordingly prior to their return, and the affected products or components shall be decontaminated before they are returned. Should the customer fail to duly comply with this requirement, Eco-Mist Biotechnics may, at the customer's expense, send back the products or components to the customer or effect decontamination itself.
- 9.9 Any further warranty or liability of any nature for any kind of damage (i.e. direct and indirect actual and consequential damage) is - insofar as legally permissible - excluded; this applies also to all cases of force majeure. Eco-Mist Biotechnics assumes neither liability for any lack of Year 2000 compliance of its products nor for the suitability of its products for the use envisaged by the customer.
- 10 **Orders and returning of erroneously ordered products**
- 10.1 We require the following information for your orders: 1. Customer number (for existing customers); 2. Name of company and responsible officer; 3. Telephone and fax numbers of customer; 4. Order date and order number; 5. Product designations and numbers; 6. Quantities; 7. Prices; 8. Invoice and delivery address; 9. Any supplementary information, e.g. in respect of delivery dates or partial deliveries.
- 10.2 If it should become apparent that the customer ordered the wrong products, Eco-Mist Biotechnics will take such products back if customer's notification of error is received within 5 calendar days as of despatch of the products, Section 9.8 applies by analogy to the procedure; however, the customer shall be responsible for return transport and insurance cover and shall bear the related expense and risk.
- 10.3 However, the customer cannot return designs or products purpose-built especially for the customer, nor will Eco-Mist Biotechnics accept the return of products that are contaminated by radioactive, microbiological or other substances.
- 10.4 Eco-Mist Biotechnics will credit customer's account with 85% of the invoiced price provided the products are received within 30 calendar days as of date of original despatch from Eco-Mist Biotechnics and are in perfect condition and accompanied by the RGA. Number and notification of the original invoice number. The cost of the status inspection shall be borne by the customer.
- 10.5 Eco-Mist Biotechnics will not accept goods ordered in error to be returned for credit under the net value of £15.00
- 11 **Intellectual property rights**
- 11.1 All intellectual property rights (such as brands or the company name) remain with Eco-Mist Biotechnics.
- 11.2 The customer must not use Eco-Mist Biotechnics intellectual property rights without Eco-Mist Biotechnics prior written consent.
- 11.3 If third parties should claim infringement of their intellectual property rights by Eco-Mist Biotechnics products, the customer shall notify Eco-Mist Biotechnics immediately in writing. The customer shall be obliged to assist Eco-Mist Biotechnics in defending such claims, to the best of his ability and according to Eco-Mist Biotechnics instructions. Eco-Mist Biotechnics cannot accept any liability whatsoever for damage the customer may suffer as a result of such alleged or actual infringements.
- 11.4 Should the customer identify a possible infringement of Eco-Mist Biotechnics intellectual property rights, the customer shall immediately inform Eco-Mist Biotechnics in writing and shall subsequently assist to safeguard Eco-Mist Biotechnics rights to the best of his ability according to Eco-Mist Biotechnics instructions.
- 11.5 The customer guarantees that by manufacturing products according to his designs, technical specifications or instructions, Eco-Mist Biotechnics will not be infringing upon any intellectual property rights. The customer assumes full responsibility for any and all consequences arising from any such alleged or actual infringement.
- 12 **Confidentiality and Secrecy**
- 12.1 The customer shall maintain strict confidentiality in respect of all details of the customer's business relationship with Eco-Mist Biotechnics as well as in respect of Eco-Mist Biotechnics business secrets, also after termination of the business relationship. The customer shall impose this obligation also on the company executives, board members and employees as well as on any third parties the company may lawfully consult. In particular, quotations submitted by Eco-Mist Biotechnics are also of confidential nature. Any infringement of this obligation will entitle us to claim compensation and to immediately withdraw from the contract.
- 13 **Retention of Title**
- 13.1 Eco-Mist Biotechnics remains the owner of all products sold until the full purchase price (according to sections 3 to 7) has been received.
- 13.2 If the products remain at Eco-Mist Biotechnics premises, we shall be entitled to have an appropriate entry made in the relevant title retention register.
- 13.3 If the products are delivered outside of Eco-Mist Biotechnics premises, reservation of ownership is subject to the legal provisions at their destination.
- 13.4 If an invoiced amount is due but not fully paid, Eco-Mist Biotechnics shall be entitled to demand the return of all products supplied on this invoice, or to collect such products, whereby the customer shall not hold any claims whatsoever.
- 13.5 If Eco-Mist Biotechnics asserts its ownership rights and demands the return of or collects the products, Eco-Mist Biotechnics will be entitled to any part payment the customer may already have made for the products as a penalty.
- 14 **Miscellaneous provisions**
- 14.1 The customer shall not set off his own claims on Eco-Mist Biotechnics against Eco-Mist Biotechnics claims on the customer.
- 14.2 The customer shall not assign his claims against Eco-Mist Biotechnics to third parties.
- 14.3 Eco-Mist Biotechnics may use the services of third parties in the performance of its obligations.
- 14.4 Eco-Mist Biotechnics may amend these Terms and Conditions of Sale at any time.
- 14.5 All legal relationships between Eco-Mist Biotechnics and the customer are subject to British Law.

Eco-Mist Biotechnics Limited

Terms and Conditions of Sale
Valid from: April 2014

The ordinary courts at the domicile of Eco-Mist Biotechnics shall exclusively be competent for the settlement of any disputes between the customer and Eco-Mist Biotechnics. shall however, be entitled to initiate legal action against the customer at any other competent court.

We Hereby agree to the Terms and Conditions of Sale as set out above: -

Signed: _____

Printed: _____

On behalf of: _____
(Company Name)

Date: / /