



SALE CONDITIONS

These Sale Conditions govern the sale and license of the goods and services rendered by LPE to Customer.

1) Quote- Purchase Order - Purchase Order Confirmation

LPE Quotation shall not have the binding effects of a contractual offer. Its whole or partial acceptance by Customer with a purchase order making express reference to the Quotation ("Purchase Order") will not bind LPE in any manner until such Purchase Order is finally and expressly accepted in writing by LPE with an order confirmation ("Purchase Order Confirmation").

Prices listed shall nonetheless be valid for one month from date of the Quotation.

2) Agreement

The agreement between Customer and LPE (the "Agreement") shall be composed of the following contractual documents:

- The Quotation
- The Purchase Order
- The Purchase Order Confirmation

Terms and conditions contained in the Quotation shall apply unless expressly derogated by the later contractual documents.

3) Requirements of Purchase Order

The Purchase Order shall be irrevocable for a period of 30 days and must be transmitted to LPE by to :

sales@lpe-epi.com.

or by fax to :

LPE
Via Falzarego , 8
20021 Bollate (Milan) – Italy
Tel: +39/02/383415.1
Fax: +39/02/38341595

4) Prices

Prices quoted with reference to each item in the Quotation include the price for the sale of the machinery mentioned therein as well as for the assignment of a non-exclusive, non-assignable license on the software embedded into such machinery.

Quoted prices only include what expressly mentioned the Quotation and, in particular, do not include:

Updating releases and software maintenance fees;

Any federal, state, municipal or other taxes or duties now in force or enacted in the future, including custom duties, value added tax, sales tax or similar taxes (exclusive of taxes based on LPE net income). Any such tax or duties imposed on, or measured by the transaction between LPE and Customer, shall be the sole responsibility of Customer and be paid by Customer in addition to the prices quoted or invoiced. In the event



LPE is required to pay any such tax or duty at the time of sale or thereafter, Customer shall immediately reimburse LPE therefor."

LPE shall invoice Customer for any charge due hereunder in accordance with the shipment and delivery terms or any other arrangement with Customer.

5) Terms and Conditions of Payment

Payment terms are subject to the provisions set forth in section C (Special Sale Conditions) of the Quotation.

Payments will be made by wire transfer (SWIFT), net of bank commissions for LPE.

In case of late payment, interests will be due on the overdue amount at the rate of 1% per month or fraction thereof, or at such lower rate, which may be allowed by the applicable laws as the highest allowed interest rate.

If the Product is delivered in installments, Customer shall pay each installment as provided above. Each installment shall be treated as a separate transaction, but in the event of any default of Customer LPE may decline to make further shipments without affecting in any manner LPE's rights hereunder. If, despite Customer's default, LPE elects to continue to make shipments, this shall not constitute a waiver by LPE of its rights as originated from such Customer's default or in any way affect LPE's legal remedies for such default.

In the event of failure of a timely payment, the scheduled delivery date shall not be valid and LPE reserves the right to discharge any duty hereunder and to cancel the Agreement.



6) Modifications to product specifications

LPE shall have the right to alter or modify the specifications of the products sold or licensed hereunder, provided that such alterations or modifications do not materially affect the overall product performance.

6) Software Personal, Nonexclusive License and patented parts of the Reactor

LPE grants to Customer a nonexclusive, non-assignable license to use the software program (the "Software") described by section E of the Quotation solely for the use by Customer on the Reactor. The Software is owned by LPE and it is protected by copyright and/or patent laws. The Software is licensed and not sold to Customer, and Customer shall not become the owner thereof. Unless otherwise provided by any applicable provision of law, Customer may not copy, duplicate, reproduce, examine, analyze, develop, reverse engineer, decompile or disassemble the Software, nor it may lease, rent, assign or otherwise transfer its title thereon.

Patented parts of the Reactor are protected by patent laws. In any case, without LPE's advance written approval, Customer shall not, directly or indirectly, either personally or through third parties, modify, alter or change in any manner whatsoever any patented part of the Reactor, nor purchase any such part other than from LPE or LPE qualified and approved manufacturers.

Customer acknowledges and agrees that all the wearing parts, consumables and spare parts supplied by LPE as well as all quartz parts and graphite parts supplied directly by LPE or by a supplier qualified by LPE as LPE Qualified and Approved Manufacturer (the "Goods") have been manufactured, conceived and intended to be used exclusively in combination between them and with the Reactor, according to the instructions provided by LPE (inter alia, instructions on the authorized use of the supplied Goods and Reactor). In this regard, Customer undertakes not (i) to use any Good, Reactor as well as any other item provided by LPE or LPE Qualified and Approved Manufacturers, in combination with any other machinery, device and equipment which have not been provided by LPE or by LPE Qualified and Approved Manufacturer; (ii) to disassemble, dismantle, alter or modify any Good, Reactor as well as any other item provided by LPE or by LPE Qualified and Approved Manufacturer, unless prior written authorization by LPE. ALL WARRANTY TERMS WILL BE VOIDED IF THE ABOVE CONDITIONS ARE NOT FULLY SATISFIED.

Customer agrees that the products of LPE as well as their additional parts contain valuable Confidential Information and agrees it will not modify, reverse engineer, decompile, create other works from, or disassemble any products or parts which embody Confidential Information.

If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

7) Packaging

Products shall be suitably packed in accordance with the common requirements of carriers and in such a manner as to achieve a reasonably low transportation cost.

Product is packed in strong wooden crates export type with tilt / shock indicator. Product parts are vacuum-sealed in plastic foil. Moisture absorbers are provided inside each crate. Product is properly packed by LPE and necessary measures shall be taken to protect the contract goods from moisture, rain, rust, corrosion, shock and damages. The package is suitable for long-distance transportation. The Customer shall be liable for any damage and/or loss of the goods attributable to inadequate, improper or longer than 2 (two) months storage after delivery.



8) Delivery, property and risk

Unless otherwise provided for elsewhere in the Agreement, products will be sold "CIP AIRPORT OF DESTINATION".

Delivery shall take place and property and risk shall pass to Customer according to the terms of the sale as per ICC Inco terms of the most recent edition available at the date of Quotation.

The average delivery time for sales shall be 4 months as from the date of Purchase Order Confirmation. In any event, the time quoted for expected delivery is an estimate only. LPE shall make all reasonable efforts to deliver the Product within the time quoted, provided however in no event it shall be liable for losses or damages of any kind caused to Customer by a later delivery.

In case, for any reason, LPE and Customer agree on installments delivery of the Product, payment release will be agreed accordingly and each installment shall be treated as a separate transaction. In the event of any default of Customer in relation to payment terms, LPE may decline to make further shipments without affecting in any manner LPE's rights hereunder. If, despite Customer's default, LPE elects to continue to make shipments, this shall not constitute a waiver by LPE of its rights as originated from such Customer's default or in any way affect LPE's legal remedies for such default.

If Customer is unable to accept delivery of the Product at the date scheduled and confirmed by LPE for delivery, it shall immediately so inform LPE and the parties shall attempt to arrange for an alternative delivery location, provided however that LPE shall have no obligation to find an alternative location. Should Customer be unable to accept the Product within 90 days as from the scheduled and confirmed date for delivery, LPE shall have the right, at its own discretion, to (i) either terminate the Agreement, or (ii) store the Product in a warehouse or in any other convenient location at Customer's expenses with the effect for LPE of being so released from any liability for loss or damage of the Product after such date, in either case retaining the advance payments made by Customer as liquidated damages and keeping the right to be indemnified by Customer for any further damages. Upon the scheduled and confirmed date for delivery, LPE is authorized to invoice Customer the full Price as if delivery had been made.

9) Carriage

Should a form of sale be agreed involving LPE's responsibility for choice and payment of carrier, the provision of this article 6 shall apply.

Transportation cost (by any transportation mean) will be charged and invoiced separately to Customer.

Carriage dates, if any, stated by LPE in the Quotation or any following documents are approximate only and merely represent LPE's best estimate of the time required for the carriage. LPE shall not be liable in any manner whatsoever for any loss or expense (consequential or otherwise) incurred by Customer as a result of any delay on carriage for any reason.

10) Security interest

LPE hereby reserves a first degree privileged security interest for the unpaid purchase price or any part thereof on the Product sold and delivered.

Customer hereby agrees to perform all acts necessary or appropriate to assist LPE in perfecting and maintaining such security interest. In the event of default by Customer of any of its obligations to LPE, LPE shall have the right, without liability to Customer, to repossess the Product.

At LPE request, Customer shall grant LPE with other security interest.

11) Assembly

LPE personnel shall install the Product at Customer's facility on a mutually agreed upon schedule. Crating may be opened only in presence of the appointed LPE responsible; failure to do so shall cause the warranty to become ineffective. Customer shall provide electrical, heating and air conditioning environment, cable installation and other facility requirements as specified in LPE's applicable installation specifications manual which is incorporated by reference herein. Positioning, unpacking, equipment transportation inside Customer's factory will be done by Customer's personnel and with Customer's lifting and transport media under the supervision of an LPE's technician. LPE personnel will perform the reactor assembly, which includes electrical connections only among the parts of the system.

12) Ready for start-up and acceptance

Should the Agreement provide for acceptance tests after installation, the provisions of this article 10 shall apply.

Customer shall notify LPE in writing that facilities are tested and ready for start-up according to the LPE facilities check-list enclosed in the installation specifications. Said notification must reach LPE within 60 days after delivery. LPE shall subsequently send its engineers to perform final check-up, calibration start-up and acceptance tests as agreed in the Agreement. All such activities will be performed using facilities and materials supplied by Customer. Customer shall perform all necessary actions to comply with local safety , environmental and all other regulations concerning facilities and equipment installation .

In the event LPE is unable to perform the acceptance tests within 90 days from delivery date due to Customer's default or other reason whatsoever beyond LPE's control, the Product will automatically be considered as fully accepted.

In the event LPE is unable to attain the performance stated in the Acceptance Procedure due to facilities not in compliance with LPE Installation Specifications within 90 days from date of shipment ,the Product will be considered as fully accepted.

The acceptance performance measurements and reactor performance will be done only with the utilization of:

LPE property bubbler and exhaust gas scrubber approved by LPE ;

LPE approved quartz parts and graphite parts design;

Reactor installation according to LPE specification.

Systems other than those listed above must be approved by LPE in writing.

13) Exclusions

Machinery and services subject to the Agreement are only those which are expressly mentioned as such therein. In particular and without limiting the generality of the foregoing, following items are NEITHER included in LPE basic supply NOR in assembly, start-up or acceptance activities:

- susceptors, supports and caps unless in case of specific agreements
- any gases, cooling water and DI water, compressed air
- handling of specialty gases and relevant lines , components , connections , bottles and the like , which must be supplied by Customer through certified personnel with proper gas handling licence
- electrical power supply to main switch, ground lines to all parts of the system
- water drain, reaction gas exhaust, air extraction blower
- gas cylinders, process gasses, chemicals, storage tanks
- masonry and building works of any kinds
- inside and outside transports and lifting media
- wafers for calibration and production
- all fluid pipelines outside reactor and among parts
- all expenses and additional costs concerning transportation, freight insurance, import and export permits and licenses, duties, taxes, custom charges etc.

14) Proprietary information

LPE reserves the right to supply, at its own discretion, all the necessary information for the proper installation, test, operation and maintenance of the Product in accordance with the published specifications for such Product. LPE retains for itself all proprietary information and intellectual property rights arising out of the work performed by LPE in compliance and/or in connection with the Agreement or related to products developed by LPE as a result thereof, including the sole right to manufacture such products. Customer warrants that it will not manufacture or engage to have manufactured such products. Should LPE cease to supply and support the Product purchased under the Agreement, LPE shall furnish to Customer the necessary engineering drawings and software documentation for operating and maintaining the Product delivered hereunder.

All information (included, but not limited to, data of any nature, LPE business, projects, plans, products, services, technical designs, engineering drawings, software and documentation), patents and trademarks disclosed or revealed to Customer are protected by intellectual property copyright and patents laws and shall remain in the full ownership of LPE. This information shall be considered classified and confidential and shall not be processed, revealed, disclosed, transferred by Customer to any third party, under any circumstance. Customer shall perform any necessary efforts in order to maintain such information classified and confidential.



15) Limited warranty

LPE warrants the Product sold or licensed hereunder against faulty workmanship or the use of defective materials for a period of twelve (12) months from the shipment of the Product evidenced by the LPE invoice date and shipment documentation. Customer's remedies and LPE's liability with respects to the Product delivered hereunder may only be modified or amended by a written instrument, signed by a duly authorized officer of LPE and accepted by Customer.

Customer must give written notice to LPE of any alleged defectiveness of the Product within 8 days from the date it has or ought to have discovered such defectiveness. This term shall not be postponed under any circumstance.

LPE's sole and exclusive liability and Customer's sole and exclusive remedy under this warranty shall be, at LPE's option, to repair or replace any such defective Product. Such remedies are available only after LPE's examination of such Product and provided such defects were not caused by Customer's misuse, neglect, improper installation or testing, attempts to repair or by other causes beyond the range of normal usage, or by accident, fire or other hazard. Repair or replacement of a part does not extend the warranty period beyond the initial warranty period as defined above.

All Product which Customer considers defective shall be returned to LPE. The method of shipment shall be approved by LPE in advance. Any replaced part shall return into the full ownership of LPE.

LPE shall not be liable under any warranty clause for defectiveness of the Product if at the time of the conclusion of the Agreement Customer knew or could not have been unaware of such defectiveness.

LPE warranty on the Product is subject to the express condition that all wearing parts, consumables and spare parts used on the Products have been exclusively supplied by LPE and that all quartz parts and graphite parts have been either supplied directly by LPE or by a supplier qualified by LPE as LPE Qualified and Approved Manufacturer. An updated list of suppliers qualifying as LPE Qualified and Approved Manufacturer can be obtained by LPE upon request.

Customer acknowledges and agrees that all the wearing parts, consumables and spare parts supplied by LPE as well as all quartz parts and graphite parts supplied directly by LPE or by a supplier qualified by LPE as LPE Qualified and Approved Manufacturer (the "Goods") have been manufactured, conceived and intended to be used exclusively in combination between them and with the Reactor, according to the instructions provided by LPE (inter alia, instructions on the authorized use of the supplied Goods and Reactor). In this regard, Customer undertakes not (i) to use any Good, Reactor as well as any other item provided by LPE or LPE Qualified and Approved Manufacturers, in combination with any other machinery, device and equipment which have not been provided by LPE or by LPE Qualified and Approved Manufacturer; (ii) to disassemble, dismantle, alter or modify any Good, Reactor as well as any other item provided by LPE or by LPE Qualified and Approved Manufacturer, unless prior written authorization by LPE. ALL WARRANTY TERMS WILL BE VOIDED IF THE ABOVE CONDITIONS ARE NOT FULLY SATISFIED.

THE WARRANTIES SET FORTH HEREIN ARE THE ONLY WARRANTIES FURNISHED BY LPE ON THE PRODUCT. WARRANTY TERMS AND CONDITIONS SET FORTH HEREIN EXPRESSLY DEROGATE AND STAND IN LIEU OF ANY AND ALL OTHER WARRANTY TERM AND CONDITION WHICH WOULD HAVE BEEN OTHERWISE APPLICABLE, INCLUDING WARRANTY RULES OFFERED BY NATIONAL OR CONVENTIONAL LAWS APPLICABLE TO THE AGREEMENT. ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED AND EXCLUDED BY LPE, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. IN NO EVENT SHALL LPE BE LIABLE FOR ANY SPECIAL INDIRECT INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, EVEN IF LPE SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE WITH RESPECT TO THE PRODUCT DELIVERED HEREUNDER OR SUBSEQUENT USE THEREOF.

16) imitation of liability

LPE shall not be liable for any loss, damages or penalty resulting from failure to perform any of its obligations under the Agreement due to force majeure or any cause beyond its reasonable control. In the event of any such partial or complete failure to perform, LPE may cancel the Agreement without any further liability for either party.

LPE'S LIABILITY UNDER OR FOR BREACH OF THE AGREEMENT SHALL NOT EXCEED THE REFUND OF THE PURCHASE PRICE LESS REASONABLE RENTAL FOR PAST USE. IN NO EVENT SHALL LPE BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS BY CUSTOMER. IN NO EVENT SHALL LPE BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, NEGLIGENCE OR OTHERWISE.

17) Patent infringement

With respect to Product developed and produced solely by LPE, LPE hereby agrees to indemnify, hold harmless and defend the Customer from and against any and all suits or proceedings at law or in equity, and any and all liability, loss or damage arising out of or in connection with any claim by any person, firm or corporation based on the allegation that the use of such Product infringes any patent laws, provided, however, that LPE shall be notified in writing within 30 days of any such suit or proceeding and LPE shall have sole control of the defense of any such suit or proceedings and all negotiations for the settlement or compromise thereof. The indemnity contained in this paragraph shall not apply if a normally non-infringing Product is rendered infringing by reason of LPE's compliance with requests or designs of Customer or by reason of alteration for use by Customer of LPE's Product. LPE may at its sole discretion and at any time replace or modify any Product sold under the Agreement or procure for Customer the right to continue using it in such a manner as to avoid any infringement.

LPE SHALL NOT BE LIABLE FOR ANY COLLATERAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF PATENT INFRINGEMENT. IF INFRINGEMENT IS ALLEGED PRIOR TO COMPLETION OF DELIVERY OF PRODUCT, LPE MAY DECLINE TO MAKE FURTHER SHIPMENTS WITHOUT BEING IN BREACH OF THE AGREEMENT.

18) Termination

In any one or more of the following events, Customer shall immediately pay to LPE the full amount of any payment obligations under the Agreement and LPE shall have the right at its own discretion and without prejudice to its other rights to terminate the Agreement by written notice and with immediate effects:

in the event (i) Customer makes general assignment for the benefit of creditors, or transfers all or substantially all of its assets to a receiver or a trustee in bankruptcy, (ii) a proceeding is commenced by Customer for relief under bankruptcy or similar laws, (iii) a proceedings is commenced against Customer for relief under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days, or (iv) Customer is adjudged insolvent or bankrupt.

upon the failure by Customer to pay any sums due to LPE hereunder within thirty (30) days after the same become due;

upon failure of Customer to perform any of its obligations hereunder, other than the payment of money, within thirty (30) days after receipt by Customer of written notice from LPE specifying such failure.

19) Notices

Notices permitted or required to be given hereunder shall be deemed sufficient if given by registered or certified air mail, postage prepaid, return receipt requested, addressed to the respective addresses or the parties as resulting in the Purchase Order and Purchase order Confirmation or at such other addresses as the respective parties may designate by notice from time to time. Notices so given shall be effective as of the date stamped on the receipt.

20) Amendment and severability

Except as otherwise provided herein, the Agreement shall not be amended or modified, nor shall any waiver of any right hereunder be effective unless set forth in a document executed in writing.

If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

21) Survivability of remedies

The failure by LPE to enforce any of the provisions hereof shall in no way be construed as a waiver of such provisions, nor in any way it shall affect the validity of the Agreement or any part thereof or the right of LPE to enforce each and every such provision thereafter.

22) Insurance coverage

From the arrival of the Product at Customer's facility, Customer shall adopt and maintain all reasonable and customary insurance coverage on the Product, including, without limitation, damages occurring during installation, start-up and acceptance tests.

23) Arbitration and applicable law

Unless otherwise agreed by the parties, the Agreement is made in compliance with, governed by and shall be construed in accordance with the UN Convention on Contracts for the International Sale of Goods (Wien, April 11th 1980), and where the latter does not apply, in accordance with the laws of Italy.

All disputes arising out of the Agreement, including those concerning its validity, interpretation, performance and termination, shall be referred to an arbitral tribunal consisting of three arbitrators, one being the President, according to the International Arbitration Rules of the Chamber of National and International Arbitration of Milan, which the parties acknowledge to be acquainted with in their entirety. The arbitrators shall decide according to the abovementioned provisions. The language of the arbitration shall be English.

Before or during the arbitration, LPE may apply to a court for temporary restraining orders, injunction orders, preliminary orders, summary judgments or similar restraining action or interim injunction, in any appropriate jurisdiction, to precautionary purposes.

If any legal action is brought to collect the Product's price, the prevailing party shall be entitled to receive its attorney's fees and costs in addition to any other relief it may receive.