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	Approval Date:	03-Dec-2024	Author:	Joshua Peska
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GENERAL TERMS AND CONDITIONS OF SALE

1. Scope of Applicability

- 1.1. These General Terms and Conditions of Sale ("GTCS") apply to all sales of products ("Products") and services ("Services") of iPHASE technologies Pty Ltd ("iPHASE"). Notwithstanding any conflicting, contrary or additional terms and conditions in any purchase order or other communication from you. No such conflicting, contrary or additional terms and conditions shall be deemed accepted by us unless and until we expressly confirm our acceptance in writing.
- 1.2. We reserve the right to change these GTCS at any time. We will give you thirty (30) calendar days' notice of any changes by posting notice on our website.
- 1.3. The iPHASE quotation (hereinafter referred to as the "Offer"), the accompanying Order Confirmation, the invoice and these GTCS (collectively, this "Agreement") comprise the entire agreement between the parties, and supersede all prior or existing understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These GTCS prevail over any of the Purchaser's general terms and conditions of purchase regardless of whether or when the Purchaser has submitted its purchase order or such terms. Fulfillment of Purchaser's order does not constitute acceptance of any of Purchaser's terms and conditions nor of any changes made by Purchaser to the Offer and does not serve to modify or amend these GTCS.


2. Offers, Purchase Orders and Order Confirmations

- 2.1. All purchase orders issued by you shall specify as a minimum the type and quantity of goods requested, applicable unit prices, delivery place and requested delivery dates. No purchase order shall be binding on us unless and until confirmed by us in writing.
- 2.2. Unless otherwise specified, the valid terms of any Offer by iPHASE are three (3) months
- 2.3. Whether or not an order has been preceded by an Offer from iPHASE, the Agreement is considered to be concluded when the Purchaser has received an Order Confirmation after having placed a written purchase order with iPHASE.
- 2.4. No order accepted by iPHASE may be cancelled by the Purchaser unless agreed upon in writing by iPHASE. All costs resulting from the cancellation, including loss of earnings, shall be the Purchaser's responsibility.

3. Prices and Terms of Payment


- 3.1. Unless otherwise stated in writing, the prices for the Products and Services are in Australian Dollars (AUD)

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- 3.2. iPHASE has the right, to adapt its prices for the Products and Services based on the change in the Australian Consumer Price Index (CPI) and to the change in the market conditions including but not limited to supplier raw material costs and labour costs, impacting iPHASE costs upon thirty (30) calendar days prior written notice to the Purchaser. If the Purchaser does not agree with the price change, it has 15 calendar days to react and may cancel the relevant order of Product and/or stop using the relevant Service. Thereafter the price change is deemed accepted.
- 3.3. The prices for goods shall be those set forth in our order confirmation. All prices are exclusive of taxes, impositions and other charges, including, but not limited to, Goods and Services Tax (GST) or charges imposed by the Australian government, and any other government authorities.
- 3.4. Unless expressly stated otherwise in our order confirmation, payment for goods shall be made as follows:
- 3.4.1. Payment due 30 days upon receipt of invoice
- 3.4.2. Sale of Radiosynthesis Modules:
- 70% due upon receipt
 - Remaining 30% due after installation. iPHASE reserves the right to invoice the remaining 30% if the installation is delayed by the purchaser of the goods for a period of 3 months or more past the agreed installation date.
- 3.4.3. Sale of consumables:
- Due upon receipt
- 3.4.4. Sale of Spare Parts:
- Due upon receipt
- 3.5. You must submit such financial information from time to time as may be reasonably requested by us for the establishment or continuation of payment terms. We may in our sole discretion at any time change agreed payment terms without notice by requiring Electronic Funds Transfers (EFT), bank guarantee, letter of credit or otherwise.
- 3.6. If you fail to pay any invoice within thirty (30) calendar days of the due date of payment, we may suspend delivery of any purchase order or any remaining balance thereof until payment is made or terminate delivery of any purchase order or any remaining balance thereof by providing written notice of termination to you within thirty (30) calendar days of the expiration of the grace period. Further, we may charge you interest from the due date to the date of payment at the rate of 1.5 % per month. This shall be in addition to, and not in limitation of, any other rights or remedies to which we are or may be entitled at law or in equity.
- 3.7. Title to goods delivered shall remain vested in us and shall not pass to you until the goods have been paid for in full. If you fail to pay any invoice within thirty (30) calendar days of the

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due date of payment, we may retake the goods covered by the invoice. You must insure all goods delivered to their full replacement value until title to the goods has passed to you.

- 3.8. If iPHASE elects to terminate the Agreement, the Purchaser will reimburse iPHASE for all the costs and damages caused by the termination of the Agreement in addition to paying any outstanding amounts due by the Purchaser to iPHASE.


4. Terms of Delivery and Late Delivery

- 4.1. Unless expressly stated otherwise in our order confirmation, all deliveries of goods shall be Delivered at Place (DAP) in accordance with Incoterms 2010.
- 4.2. iPHASE will use reasonable efforts to meet the delivery time frame specified in the Order Confirmation. The delivery time stated in the Order Confirmation or estimates may be increased by up to four weeks if the delivery time starting from the valid date of the order overlaps with the Christmas holidays (from 20th December to 20th January). All such delivery schedules and dates are estimates only.
- 4.3. iPHASE reserves the right to deliver the Products or Services earlier than foreseen in the Order Confirmation. iPHASE may, in its sole discretion, without penalty or liability, make partial shipments of Products to the Purchaser.
- 4.4. A delay in the delivery does not justify a cancellation of the Agreement nor a delay of payments due. No damages are accepted for late delivery unless agreed upon in writing by both parties prior to entering into this Agreement and the subject to the terms of this Agreement.
- 4.5. iPHASE Shall use reasonable efforts to meet any performance dates to render the Products or Services specified in the Order Confirmation, provided any such dates shall be estimates only.
- 4.6. The Purchaser is formally prohibited from opening packages containing components that must be installed at the Purchaser's premises by iPHASE or its representative. If it is occurred, the Buyer shall be responsible for any costs or charges, for any damage caused to the components delivered and for any missing component, including the costs of replacement, delivery and the fitter's waiting time.
- 4.7. If the Products or Services are being exported, the Purchases undertakes to promptly with all laws and regulations of the export and import country and of any other applicable laws and regulations.
- 4.8. We reserve the right to make delivery in instalments.

5. Acceptance and Rejection of Goods and Services

- 5.1. You must inspect goods delivered upon receipt. You are deemed to have accepted goods delivered unless written notice of rejection specifying the reasons for the Non-conforming Product is received by us within seven (7) calendar days after delivery of the goods.

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5.2. A "Non-conforming Product" is defined by a Product that was delivered that is different than identified in the Order Confirmation.

5.3. If iPHASE has been notified in a timely manner of any Non-conforming Products, iPHASE shall, in its sole discretion:

5.3.1. Replace the Non-conforming Products with conforming Products

5.3.2. Issue a credit or refund for the price of the Non-conforming Products, together with any reasonable shipping and handling expenses incurred by Purchaser

5.3.3. Purchaser shall ship, at its expense and risk of loss, the Nonconforming Products to iPHASE facility

5.3.4. If iPHASE exercises its option to replace the Non-conforming Products, iPHASE shall, after receiving the Purchaser's shipment of Nonconforming Products, ship to Purchaser, at Purchaser's expense and risk of loss, the replacement Products to the Delivery point

6. Warranty

6.1. We warrant that upon delivery and for a period of twelve (12) months from the date of delivery goods purchased hereunder will conform in all material respects to the applicable manufacturer's specifications for such goods and will be free from material defects in workmanship, material and design under normal use. The warranty does not cover damage resulting from misuse, negligent handling, lack of reasonable maintenance and care, accident or abuse by anyone other than us.

6.2. The warranty is only valid if the following conditions are fulfilled simultaneously:

6.2.1. The fault renders the Product unusable for its intended purpose,

6.2.2. The Product has been installed and placed in a suitable way,

6.2.3. The Product has been used in accordance with its intended purpose, good practices and with iPHASE' instructions,

6.2.4. Only consumables Products, purchased from iPHASE or its authorized vendors were used on the equipment Products.


6.3. With respect to goods which do not conform to the warranty our liability is limited, at iPHASE determination, to:

6.3.1. refund of the purchase price for such goods less a reasonable amount for usage, (ii) repair of such goods, or

6.3.2. replacement of such goods; provided, however, that such goods must be returned to us, along with acceptable evidence of purchase, within thirty (30) calendar days after you discovered the lack of conformity or ought to have discovered it.

6.4. We make no other warranty, express or implied, with respect to goods delivered hereunder, and the warranty constitutes our sole obligation in respect of any lack of conformity of

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goods delivered hereunder (except title). In particular, we make no warranty with respect to the merchantability of goods delivered or their suitability or fitness for any particular purpose.

6.5. Costs and risks of sending Products, Product replacement parts or defective parts to the Purchaser, as well as the cost and risks of returning parts or acknowledged defective parts to iPHASE, are the Purchaser's responsibility. Unless otherwise agreed by iPHASE, the Purchaser has the obligation to send back the Defective Products to iPHASE.

7. Intellectual Property Rights Infringement, Confidentiality, privacy and data protection

7.1. If any goods delivered hereunder are held to infringe a third party's patent, utility model, design, trademark or other intellectual property right and you are enjoined from using same, we will, at our option and expense:

7.1.1. procure for you the right to continue using the goods;

7.1.2. replace the goods with non-infringing substitutes provided that such substitutes do not entail a material reduction in performance or function

7.1.3. modify the goods to make them non-infringing; or

7.1.4. refund the purchase price of the goods less a reasonable amount for usage. The foregoing states our sole liability for intellectual property rights infringement.

7.2. The Purchaser and its Personnel must keep the Confidential Information confidential and secure and must not disclose or otherwise make available any Confidential Information to any other person.

7.3. The Purchaser consents to iPHASE publishing or otherwise making available information in relation to iPHASE (and the supply of the Goods):

7.3.1. as may be required to comply with the Contract Publishing System;

7.3.2. to other Victorian Public Entities or Ministers of the State in connection with the use of the Goods;

7.3.3. to any public sector agency (of the State, any other state or territory or the Commonwealth) for the purposes of benchmarking, provided that it will not identify the Supplier;


7.3.4. to the office of the Auditor General appointed under section 94A of the Constitution Act 1975 (Vic) or the ombudsman appointed under the Ombudsman Act 1973 (Vic);

7.3.5. to comply with Law, including the Freedom of Information Act 1982 (Vic); or

7.3.6. to the IBAC.

7.4. The Purchaser acknowledges that it will be bound by the Information Privacy Principles, Health Privacy Principles and any applicable Code of Practice (together, Privacy Obligations) with respect to any act done or practice engaged in by iPHASE for the purposes

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of the Agreement, in the same way and to the same extent as the Privacy Obligations would have applied to iPHASE in respect of that act or practice had it been directly done or engaged in by iPHASE.

7.5. The Purchaser acknowledges that iPHASE is bound by the Protective Data Security Standards. The Purchaser will not do any act or engage in any practice that would contravene or give rise to a breach of a Protective Data Security Standard in respect of any Data collected, held, used, managed, disclosed or transferred by the Purchaser, on behalf of the State, under or in connection with the Agreement.

8. Limitation of Liability

8.1. Neither of us will be entitled to, and neither of us shall be liable for, indirect, special, incidental, consequential or punitive damages of any nature, including, but not limited to, business interruption costs, loss of profit, removal and/or reinstallation costs, reprourement costs, loss of data, injury to reputation or loss of customers. Your recovery from us for any claim shall not exceed the purchase price for the goods giving rise to such claim irrespective of the nature of the claim, whether in contract, tort, warranty or otherwise.

8.2. We shall not be liable for any claims based on our compliance with your designs, specifications or instructions or repair, modification or alteration of any goods by parties other than us or use in combination with other goods.

9. Force Majeure

9.1. Either party shall be excused from any delay or failure in performance if caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, acts of war, fire, insurrection, strikes, lock-outs or other serious labour disputes, riots, earthquakes, floods, explosions or other acts of nature. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption. When such events have abated, the parties' respective obligations shall resume. In the event the interruption of the excused party's obligations continues for a period in excess of thirty (30) calendar days, either party shall have the right to terminate the applicable contract(s) of sale, without liability, upon thirty calendar days' prior written notice to the other party.

10. Termination:


10.1. iPHASE may terminate this Agreement upon written notice to Buyer:

10.1.1. if Buyer fails to pay any amount when due under this Agreement ("Payment Failure") and such failure continues for 30 days after Buyer's receipt of written notice of nonpayment.

10.1.2. Materially breaches any provision of this Agreement and fails to remedy such breach within 30 days after receiving written notice of the breach;

10.1.3. Becomes insolvent, files for bankruptcy, or undergoes any similar proceedings;

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10.1.4. Engages in unlawful activity, fraud, or gross misconduct.

11. Dispute Resolution:

- 11.1. Good Faith Negotiation: In the event of any dispute arising under this Agreement, the Parties agree to first attempt to resolve the dispute through good faith negotiations.
- 11.2. Mediation: If the Parties cannot resolve the dispute through negotiation, they agree to submit the dispute to non-binding mediation with a mutually agreed-upon mediator. The costs of mediation shall be shared equally by the Parties.
- 11.3. Arbitration: If mediation is unsuccessful, either Party may submit the dispute to binding arbitration in accordance with the rules of the Australian Disputes Centre or the Australian Centre for International Commercial Arbitration (ACICA). The decision of the arbitrator shall be final and binding on the Parties, and judgment may be entered thereon in any court of competent jurisdiction.

12. Miscellaneous

- 12.1. No waiver of any provision of these GTCS shall constitute a waiver of any other provision(s) or of the same provision on another occasion. Failure of either party to enforce any provision of these GTCS shall not constitute a waiver of such provision or any other provision(s) of these GTCS.
- 12.2. Should any provision of these GTCS be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, such provision may be modified by such court in compliance with the law giving effect to the intent of the parties and enforced as modified. All other terms and conditions of these GTCS shall remain in full force and effect and shall be construed in accordance with the modified provision.
- 12.3. These GTCS and all contracts of sale entered into between us shall be governed by and construed in accordance with the laws of Australia without giving effect to any choice of law or conflict of law provisions. Any suits, actions or proceedings that may be instituted by either of us against the other shall be instituted exclusively before the competent courts of Australia, however, without prejudice to our right to bring suits, actions or proceedings in any other court which would have jurisdiction if this provision had not been incorporated into these GTCS.