

## **1 GENERAL**

The terms and conditions below constitute the entire agreement between “the Customer” and Fibreplus Ltd. “Fibreplus” for the sale of available equipment. Unless otherwise agreed in writing by Fibreplus, these terms and conditions will apply to all transactions between the Customer and Fibreplus to the exclusion of any other terms and conditions. These terms and conditions do not affect your statutory rights as a consumer as defined by the Unfair Contract Terms Act 1977 or any statutory modification of that Act. Fibreplus reserve the right to alter or amend these terms without prior notice.

## **2 CHARGES**

The cost of sale shall be agreed and be invoiced in advance inclusive of delivery charges and applicable taxes.

At any time prior to being invoiced, Fibreplus reserve the right to alter delivery and collection charges and any discounts without prior notice.

All charges are payable on demand. This will be without prejudice to any other rights or remedies we may have. You will also pay to us any reasonable charges we incur in the recovery from you of money or equipment.

## **3 DELIVERY**

Separate charges will be made for delivery of the equipment. Details of Fibreplus' standard transport charges for delivery of equipment are available upon request. Where the Customer's own transport is used it is the Customer's responsibility to ensure adequate insurance cover is in place.

### **3a SERVICE AND REPAIR SHIPPING**

If the customer requests an advanced replacement, subject to purchased warranty, whilst their splicer is in for repair/service, Fibreplus can provide a delivery/collection service. Fibreplus will arrange the delivery of the replacement and the collection of the customer's splicer. The goods will be fully insured during carriage. Fibreplus will arrange this at a cost of £25 + VAT each way, for each item. In this instance, it is the customer's responsibility to ensure that the equipment is made available for collection at the agreed time. If the equipment is not available for collection or not suitably packaged, Fibreplus reserve the right to charge the costs of the failed collection to the customer subject to a minimum charge of £15. The customer can decide to arrange delivery of their splicer to Fibreplus at their own cost. Full liability for loss and damage of goods in transit will rest solely on the customer.

## **4 Money Back Guarantee**

Fibreplus offer a money back guarantee on the sale of all new splicers. If for any reason the customer is not satisfied with the operation and/or the performance of the splicer the customer may return the splicer to Fibreplus for a refund of the purchase price as long as the following conditions are met.

1. The splicer must be returned either (whichever comes first);
  - a. Within 14 days of delivery or
  - b. With less than 100 splices
2. The splicer must be returned in an 'as sold' condition. Any cosmetic damage to the splicer will be rectified by Fibreplus and deducted from the refund to the customer.

Should Fibreplus offer refurbished second user splicers for sale, a line diagram showing any defects will be added to show the 'as sold' condition, along with a calibration and PAT certificate.

Any refund will be for the price of the equipment being returned and does not include any shipping charges. The cost of returning the splicer for refund will be paid by the customer and no refund will be issued until the splicer has been booked back into the Fibreplus service centre and fully checked by its engineers. This may take up to 72 hours and is chargeable.

The customer may request the collection of the splicer by Fibreplus' own fully insured courier service and this can be arranged for a fee of £25 + vat

On receipt of a new or refurbished splicer any unreported cosmetic defect or functional faults are to be reported to Fibreplus within 72 hours.

## **5 All-inclusive Warranty**

If a customer opts for the all-inclusive warranty, Fibreplus will offer an advance replacement to UK service customers with the following conditions.

Fibreplus UK splicer customers – on receipt of a request to service or repair Fibreplus will prepare a replacement machine for use by the customer during the service/repair period.

The replacement machine will be shipped either

- i. On receipt of a tracking number for the shipment of the customer's machine
- ii. On receipt of a customer's request to arrange for collection of their machine.

The cost of shipping the replacement splicer to the UK customer is included in the package. Additional fees may apply for highlands and islands.

Should the customer wish to use their own courier to ship the splicer full liability for loss and damage of goods in transit will rest solely on the customer and Fibreplus highly recommend adequate insurance is taken.

The repaired machine will be shipped back either

- (a) On receipt of a tracking number for the shipment of the loan machine back to Fibreplus.

(b) On receipt of a customer's request to arrange for collection of the loan machine.

On receipt of the loan splicer it will undergo a full service. If the machine is found to be faulty and requires any spare parts to rectify, these will be chargeable to the customer within 5 days of receipt of machine, unless under warranty or valid service contract.

All other customers– A replacement splicer will be made available for hire at a discounted rate for the duration of the repair/service of splicers.

All other terms and conditions regarding the supply of loan machines remain unaffected.

## **6 ACCEPTANCE CONDITIONS**

Acceptance of delivery of the equipment by the Customer or its appointed agent will be conclusive evidence that the equipment has been examined and found to be complete as per the manufacturer's description, in good order and condition, fit for any purpose for which it may be required and in every way satisfactory. Any unreported cosmetic defect or functional faults are to be reported to Fibreplus on receipt of goods within 72 hours.

## **7 INDEMNITIES**

Any claim for damages by the Customer against Fibreplus arising out of the Customer's use of the equipment shall, subject to Fibreplus admitting liability or being found liable for such damages, be limited to the total amount of the payments paid by the Customer for the equipment to Fibreplus as at the date of Fibreplus receiving notification of any such claim. The Customer shall be solely responsible for and hold Fibreplus fully indemnified against any loss or damage (excluding death or personal injury) to the equipment and any loss of profit, cost or expenses and any loss or damage (excluding death or personal injury) to any property arising in connection with any of the equipment or as a result of its use thereof. Fibreplus shall not be liable for any loss other than death and personal injury which may arise out of or in connection with the failure of the said equipment for whatever reason. Save as provided by Law, Fibreplus exclude all warranties relating to the equipment and the Customer's use thereof except as specifically stated herein.

## **8 CUSTOMER'S OBLIGATIONS**

The Customer agrees with Fibreplus during the length of ownership of the equipment as follows:

(a) To repay to Fibreplus on demand all costs, charges and expenses incurred in any way by reason of any breach of these terms and conditions by the Customer including, but not by way of limitation, all costs, charges and expenses incurred in determining the whereabouts of the equipment or recovering possession of the equipment from the Customer or other person and any consequential loss and/or costs suffered by Fibreplus as a result of the failure of the Customer to return the equipment in accordance with these terms and conditions.

(b) To maintain Fibreplus' and manufacturer's identification numbers or marks or any nameplates that there should be upon the said equipment.

(c) To notify Fibreplus in writing of any loss to the equipment.

(d) If purchased under a lease agreement to keep the equipment free from distress execution or other legal process and not create or allow to be created any lien over the equipment.

(e) Not to make any alterations, modifications, or adjustments or attempt any repairs to the equipment.

In the event of any breakdown or alleged defect in the equipment:

(i) The Customer shall, within 24 hours, give written notice to Fibreplus (which shall be deemed to be given once received by Fibreplus) of the discovery of the alleged defect specifying the nature of the defect.

(ii) The Customer shall make no further use of the equipment alleged to be defective after the time at which the Customer discovers that it is defective.

## **9 FIBREPLUS' OBLIGATIONS**

Fibreplus will maintain the said equipment and will provide such service at Fibreplus' premises during normal business hours save that the Customer will be liable for the cost of any repairs necessary as a result of a breach of clauses 8 or 10.

## **10 CONDITIONS OF USE**

The Customer will use the said equipment observing all the manufacturer's instructions and other regulations that may be issued for the proper use thereof and shall be entirely responsible for any damage caused to the equipment through failure to observe such instructions or regulations or failure to use the same in a proper manner. The Customer will also take all reasonable and practical steps to ensure its use of the equipment conforms with the terms and conditions laid down in the Health & Safety at Work, etc., Act 1974 (in particular section 2(2)(b) and 2(2)(c) thereof) or any subsequent governing legislation. It is your responsibility to make sure that all persons who use the Equipment are properly instructed in its safe and correct use and that they are in possession of all instructions supplied by us. You must ensure that the Equipment is not misused.

## **11 DELIVERY DATES**

Delivery dates quoted are intended as estimates only although reasonable endeavors will be made to adhere to them. In no circumstances shall Fibreplus be liable for delay in delivery arising from any cause whatsoever.

## **12 CANCELLATION**

Cancellation or part cancellation of any order, can only be accepted with Fibreplus' consent in writing and on terms which indemnify them fully against loss.

### **13 PAYMENT TERMS**

(a) Payment of all charges including delivery charges is strictly due prior to initial delivery of equipment. Normal credit terms can be applied for on request.

(b) Payments sent by post are at the risk of the Customer.

(c) Fibreplus may charge and the Customer shall pay interest at the rate of 3% per annum above the LIBOR Rate for the time being on all sums which, from time to time, may be due from the Customer to Fibreplus hereunder and for the time being unpaid, such interest being calculated from the due date until the payment is received.

(d) Fibreplus reserve the right to alter the credit terms at any time when in Fibreplus' opinion the Customer's financial condition or previous payment record so warrants.

(e) No payment is deemed to be made until received in Fibreplus' bank account.

(f) The Customer shall not be entitled to withhold payment of any amount payable to Fibreplus because of any disputed claim of the Customer in respect of faulty equipment or any other alleged breach of this or any other contract between the Customer and Fibreplus, nor shall the Customer be entitled to set off against any amount payable under this contract any monies which are not then presently payable by Fibreplus or for which Fibreplus dispute liability.

### **14 OWNERSHIP**

The equipment is and shall remain the sole property of Fibreplus until such time as full and final payment of the full invoice amount is received to Fibreplus bank account, save that for purposes connected with financing of the equipment the property in the equipment may be vested in a third party. Until such time the consent of the Customer will not be required for the assignment or transfer of this Agreement or the benefit thereof from or to Fibreplus to or from any bank leasing company or finance house being the owner of the equipment. The Customer shall not do or permit or cause to be done anything whereby the rights of Fibreplus in respect of the equipment are or may be prejudicially affected and the Customer is not allowed to claim capital allowances on the equipment.

### **15 DEFAULT**

If the Customer defaults in making any payment for any period in excess of thirty days or if the Customer is in breach of these Conditions of Sale, or becomes insolvent or compounds with its creditors or has distress or execution levied upon its property or is wound up or goes into liquidation (except for the purposes of a solvent reconstruction) or has a receiver, administrative receiver or administrator appointed of the whole or any part of its assets or suffers any similar process under the law of its domicile then Fibreplus shall be entitled to terminate the agreement forthwith and enter upon the Customer's premises and remove the equipment without notice. Fibreplus are hereby indemnified by the Customer in respect of all and any damage or loss to the Customer or any third party resulting from the exercise by Fibreplus of its rights therein reserved. This shall include Fibreplus recovering all amounts outstanding and payable as a result of such action.

## **16 FIBREPLUS LTD. WARRANTY**

Fibreplus hereby warrant to the Customer that at the commencement of the purchase the equipment complies with its Manufacturer's description and is fully covered by the manufacturer's warranty as described below

INNO Equipment – 5 years

EXFO Equipment – 1 to 4 years dependent on product

Ex-Demonstrator Equipment - 12 months

This warranty does not apply to any component that deteriorates under normal use or has a normal life inherently shorter than the warranty stated. For example, rechargeable batteries, power cells, sensors, electrodes, blades and filters are warranted for 30 days.

All other product warranty periods can be obtained on request.

In the case of equipment with warranties in excess of 1 year it is a condition of said warranty that the equipment be serviced and maintained according to the manufacturer's recommendations.

With regard to the INNO fusion splicer this will require that the splicer be serviced by Fibreplus service centre on or before the anniversary of purchase. Failure to adhere to this will invalidate the second or subsequent year's warranty. High usage machines may require more frequent servicing.

The benefit of this warranty may not be assigned by the Customer to any other party. In no event shall Fibreplus be liable to the Customer for any consequential incidental or exemplary damages such as loss of revenues or use of any equipment or down time costs. Fibreplus shall not be responsible for any delays or failures in delivery of equipment or in making repairs, recalibration or replacement due to unavailability of parts, or labour, or industrial disputes, delays in transportation or other causes beyond its reasonable control. The foregoing warranty shall not apply to any damage to equipment caused by accident, misuse or abuse. Fibreplus do not warrant the merchantability of the equipment or its fitness or suitability for any particular purpose or use.

## **17 PERFORMANCE**

Whilst application advice may be given no responsibility is accepted for incorrect results due to circumstances external to the equipment purchased.

## **18 PATENTS AND COPYRIGHTS**

Equipment may be subject to patent rights and/or legal protection.

## **19 SOFTWARE**

Any software supplied for use with supplied equipment will be subject to their own set of terms and conditions at the time of installation.

## **20 FORCE MAJEURE**

If either Fibreplus or the Customer are rendered unable wholly or in part by Force Majeure to carry out their obligations under this contract the party affected shall give to the other immediate written notice of the Force Majeure with reasonable full particulars concerning it whereupon the obligation of the party giving the notice so far as it is affected by the Force Majeure shall be suspended during but not longer than the continuance of the Force Majeure. The affected party shall use all reasonable diligence to remove the effects of the Force Majeure as quickly as possible. The term Force Majeure as employed in this contract should be deemed to include but shall not be limited to any war, riot, act of God, fire, flood, government regulation or act, any natural or accidental disaster, any strike, lockout or industrial dispute or shortage of raw materials or fuel or any breakdown of machinery or any other cause outside the reasonable control of the party suffering such Force Majeure, but not in any circumstances including financial inability. If a party is rendered unable wholly or in part by Force Majeure substantially to carry out its obligations under this contract for a period of one year or more, then either party may declare the contract to be abandoned forthwith by written notice to the other party to that effect.

## **21 GOVERNMENT PROCUREMENT**

No Government Procurement regulation shall be included hereunder or be binding on either party unless specifically agreed to in writing and expressly incorporated herein.

## **22 DELAY**

Fibreplus will not be liable for delays in performance hereunder due to unforeseen circumstances or due to causes beyond its control including but not limited to acts of nature, acts of government, labour disputes, delays in transport and delays in delivery or non-delivery by Fibreplus' suppliers.

## **23 FEES AND EXPENSES**

Fibreplus shall be entitled to recover from the Customer all fees and expenses (whether or not formal legal action is instituted) incurred as a result of any breach of these terms by the Customer or need to enforce same or in any other way arising in connection with these Conditions of Sale.

The remedies provided herein are the Customer's sole and exclusive remedies. In no event shall Fibreplus be liable for direct indirect special incidental or consequential damages (including loss of profits) whether based on contract tort or any other course of action.

## **24 AGGREGATE LIABILITY**

The aggregate liability of Fibreplus (whether in contract or for negligence or breach of statutory duty or otherwise howsoever) to the Customer for any loss or damage of whatsoever nature and howsoever caused shall be limited to and in no circumstances shall exceed the total charges paid to Fibreplus in relation to the equipment.

## **25 EXPORT CONTROL**

Overseas sales arranged by the Customer are subject to the terms and conditions listed herein. Attention is drawn to the fact that Fibreplus bear no responsibility for any additional charges, fees, or fines, V.A.T. or duty payments imposed by any authority their agents or shipping agent in the UK or overseas. Further it is the obligation of the Customer to ensure that all overseas import/export duties have been paid to the appropriate authorities and the Customer is responsible for any fines which may be imposed by any authority on the equipment which has been impounded due to the Customer's negligence or willful acts. In addition, the Customer's attention is drawn to the existence of various statutes governing customs regulations in particular the Export of Goods (Control) Order 2008 with regard to equipment which may be subject to security control. Should the Customer abandon Fibreplus' equipment anywhere in the United Kingdom or overseas or should the equipment be impounded by any customs authorities in the UK or overseas the interest will accrue until the equipment is returned to Fibreplus' premises or the equipment is purchased by the Customer at full cost as invoiced.

## **26 MISCELLANEOUS**

(a) If any of these conditions or any part of one of these conditions is rendered void by any legislation to which it is subject it shall be void to that extent and no further.

(b) Any waiver, indulgence or forbearance by either party of any of these Conditions of Sale and/or any breach thereof shall apply only in the particular instant or instances in which such waiver, indulgence or forbearance occurs, and shall not affect or impair the further continuance in force of such terms and conditions, or the right of either party to avail itself of such terms and conditions upon any subsequent breach or breaches thereof.

(c) The exercise or implementation of or reliance upon any of the terms and conditions by Fibreplus shall not give rise to any right by the Customer to cancel any contract with Fibreplus.

(d) If any provisions of these Conditions of Sale are found by a court or other competent authority to be void and unenforceable, such provisions shall be deemed to be deleted from the Conditions of Sale and the remaining provisions shall remain in full force and effect.

## **27 V.A.T.**

All prices quoted are exclusive of V.A.T., which will be charged at the rate in operation at the relevant tax point date.

## **28 NOTICE**

Any notice, demand, statement or other written communication required to be given to the Customer by Fibreplus shall be deemed to have been given, delivered or sent by post or left at the address of the Customer stated in this Agreement or at the Customer's present or last known address.



## **29 RIGHT OF SET OFF**

The Owner is irrevocably and unconditionally authorised at any time and from time to time without notice to the Customer to apply by way of set off any amount due and payable to the Owner under these Conditions of Sale against any other sums due and owing to the Customer by Fibreplus, provided that any such amounts are not the subject of a bona fide dispute between the Customer and Fibreplus.

## **30 GOVERNING LAW**

Any contract between the Customer and Fibreplus shall be governed by and construed in accordance with the Laws of England and the Customer agrees to be subject to the exclusive jurisdiction of the English Courts.

## **31 KEY FACTS**

### Use

Prior to commencing use of equipment please ensure you are familiar with all operations of the equipment including the initial set up to ensure you have entered all relevant settings correctly and that the time and date settings are correct. We advise that you complete some trial tests following the initial set up to also include the downloading of the trial test results to your PC or laptop via any associated software. Once full testing commences we advise you download results daily to further ensure safe return. If you choose to use the removable memory facility rather than the on-board memory, please ensure the card used is fully functioning as we understand that with over-use, incorrect handling and site environments the same card can become corrupt.

### Safety

Under the terms and conditions of the sale agreement you are committing to ensuring that the equipment is fully covered by your company or personal insurance at all times to the latest published recommended selling price by the manufacturers. Please enquire at the time of order to establish sufficient cover is in place. Please do not leave the equipment on any unmanned sites, unfamiliar offices and unattended vehicles or in the charge of people whom may invalidate your insurance. We take every care to deliver equipment at agreed times and dates however we are at the mercy of third party couriers over which we have no control. Therefore, we are unable to offer any guarantees or claims for consequential losses due to late or non-deliveries.

### Return

Please ensure all your data has been downloaded from the equipment to your PC or laptop using the cable provided or via the on-board or removable memory facility. Results and set up's may be deleted & formatted during the service and testing process. We take great care to ensure the equipment arrives safely in a purpose packed box, therefore we request that you retain and re-use the same packaging for its safe return subject to said packaging still being of suitable condition.