1. GENERAL

1.1 Contact Terms. Those terms and conditions constitute an integral part of any offer made by inTEST EMS, unless otherwise agreed to in writing by a Purchaser’s authorized representative.

1.2 Price Quotations. Unless otherwise agreed to in writing, all prices quoted by Seller are based on U.S. dollars, F.O.B. shipping point, and include packing. Unless otherwise stated, such prices are effective for thirty (30) days from the date of quotation.

2. TAXES

Any sales, use or manufacturer’s tax which may be imposed upon the sale or use of goods, or any property tax levied within the same state or any excise tax, license or similar fee required under this transaction shall be at Purchaser’s expense.

3. TERMS OF PAYMENT

3.1 Due Dates. Unless otherwise agreed to in writing, payment shall be due thirty (30) days from the date of the applicable invoice, provided Seller’s credit review or Purchaser is acceptable to Seller. All charges are payable in U.S. dollars.

3.2 Late Charges. A service charge of 1 1/2% per month, or not to exceed the maximum rate allowed by law, shall be made on any portion of Purchaser’s outstanding balance which is not paid within thirty (30) days after the applicable invoice date (the ”Late Payment Fee”).

3.3 Payment Upon Termination. If any special terms should apply, the special terms on payment shall prevail over the quoted prices and paid by Purchaser.

4. CHANGES, CANCELLATIONS, AND RETURN

4.1 No Withholding of Payments. Seller shall not be entitled to withhold the whole or any part of the payment due to goods sold or services performed on the grounds of any alleged defect or any other claim whatsoever against Seller unless the defect or other claim is recognized by Seller and Seller agrees in writing to such recognition.

4.2 Suspension of Performance. Nonpayment on the due date shall entitle Seller to suspend performance on any other terms which it may have to suspend performance of any and all its outstanding obligations to the Purchaser until such payments are made in full, including any Late Payment Fee that may have accrued.

5. DELIVERY, RISK OF LOSS

5.1 Delivery Dates. Delivery and completion schedules are approximate only and are based on conditions at the time of acceptance of Purchaser’s order.

5.2 Risks of Loss. Unless otherwise agreed to in writing, delivery shall be complete upon transfer of possession to common carrier, F.O.B. shipping point whereupon all risk of loss, damage or destruction to the goods shall pass to Purchaser.

6. INSURANCE

For Purchaser’s protection, Seller may, in its sole discretion, insure all shipments at full value. Any charges therefor shall be billed to Purchaser unless, at least ten days prior to shipment, Purchaser has certified its intention to obtain insurance in form and amount acceptable to Seller.

7. INSTALLATION

7.1 Installation. The quantity of any installment of goods as recorded by Seller on shipment from Seller’s place of business is conclusive evidence of the quantity received by Purchaser on delivery unless Purchaser can provide conclusive evidence proving the contrary. Seller shall not be liable for any non-delivery of goods (even if caused by Purchaser’s negligence) unless Purchaser gives written notice to Seller within thirty (30) days of the date when the goods would in the ordinary course of events have been received. Any liability of Seller for non-delivery of goods shall be limited to the replacement of the goods within a reasonable time or to the refund of the purchase price of such goods if the tendering of such goods does not reflect the actual quantity delivered. Seller acknowledges and agrees that the remedies set forth in Section 5 are Purchaser’s exclusive remedies for any non-delivery of goods.

8. TITLE

Unless otherwise agreed to in writing, title to the goods shall remain with Seller until all payments due hereunder have been made.

9. CHANGE, CANCELLATIONS, AND RETURN

9.1 Accepted Orders Not Subject to Change. Orders accepted by Seller are not subject to change or cancellation by Purchaser except with Seller’s written consent and payment of not less than 25% of the cost of the order required by Seller.

9.2 Return of Goods. No goods shall be returned to Seller without Seller’s written consent thereto in writing. All returns are subject to a credit charge and any return of the goods must be fully insured by and at the expense of Purchaser.

10. FORCE MAJEURE

10.1 Seller. Seller will make every effort to complete shipment and installation when indicated, but shall not be liable for any loss or damage for delay in delivery or inability to install due to causation beyond its reasonable control, including, but not limited to, acts of God, flood, fire, earthquake, explosion, governmental actions, war, riots, or hostilities (whether war is declared or not), temporal or national emergency, revolution, insurrection, epidemic, lockout, strikes or other labor disputes (whether or not relating to either Seller’s work or related work), or any other labor difficulties involving a substantial proportion of the labor of Seller or its suppliers, and all other causes which are beyond Seller’s control and which are beyond Seller’s control and which are beyond Seller’s control and which are beyond Seller’s control and which are beyond Seller’s control and which are beyond Seller’s control.

10.2 Product Warranty. Seller warrants that the products sold hereunder shall be free from defects in material or workmanship and will be carried out in accordance with the terms and conditions hereof and shall remain in good working order, except as otherwise agreed to in writing by Seller and Seller shall make all such repairs or replacements at no cost to the Purchaser.

11. ASSIGNMENT

Neither party may assign any rights or obligations in connection with the sale of the goods to the Purchaser without the written consent of the other. No assignment or delegation relieves Purchaser of any of its obligations hereunder.
16. MODIFICATION
16.1 These Terms and Conditions of Sale may not be changed, modified, or amended, except in writing signed by authorized representatives of the parties.

17. GOVERNING LAW
17.1 The rights and obligations of the parties in connection with the sale of goods to the Purchaser shall be governed by the laws of the State of New Jersey, without giving effect to any choice of law provision or rule (whether of the State of New Jersey or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of New Jersey. Any legal suit, action, or proceeding arising out of or relating hereto shall be instituted in the federal courts of the United States of America or the courts of the State of New Jersey, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.