

Document Name: Terms & Conditions of Sale

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Revision Author: M.J.Pegg

The following are the Terms and Conditions under which A.C.A.S. Engineering may agree to sell and supply goods and/or services to any person or organisation.

All quotations, estimates and appraisals are made, whether verbal, in writing or otherwise, and all orders and instructions to proceed are accepted and fulfilled in accordance with the following Terms and Conditions unless specifically and definitively agreed in writing as per the terms outlined herein.

1. DEFINITIONS

- 1.1. "Business Day"
means any day other than a Saturday, Sunday or bank holiday. Business Hours are 0800 to 1700 Hrs.
- 1.2. "the Customer"
means the person who accepts a quotation or offer of the Supplier for the sale of Goods and/or supply of Services, or whose order for the Goods and Services is accepted by the Supplier;
- 1.3. "Commencement Date"
means the commencement date for this agreement as set out in the Quotation / Order Acceptance;
- 1.4. "the Contract"
means the contract for the purchase and sale of the Goods and supply of the Services under these conditions;
- 1.5. "these Conditions"
means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing prior to the commencement of the Contract between the Customer and the Supplier;
- 1.6. "the Delivery Date"
means the date on which the Goods and Services are to be delivered as stipulated in the Customer's order and accepted by the Supplier, this date does not constitute part of the Contract;
- 1.7. "the Goods"
means the goods (including any instalment of the goods or any parts of/for them) which the Supplier is to supply in accordance with these Conditions;
- 1.8. "month"
means a calendar month;
- 1.9. "the Services"
means the Services to be provided to the Customer as set out in the Quotation / Order Acceptance;
- 1.10. "the Supplier"
means A.C.A.S. Engineering and any person or Supplier acting officially (only when confirmed explicitly in writing by the owner(s) of A.C.A.S. Engineering) on its behalf ;
- 1.11. "writing"
includes any communications effected by letter, telex, facsimile transmission or electronic mail and signed by an authorised representative.

2. GENERAL

- 1.1. All orders are accepted and goods and/or services supplied subject to the terms and conditions outlined herein.
- 1.2. These Terms & Conditions shall take precedence over any previous or future communications, representations or agreements by either the Supplier or the Customer including any terms and conditions on the Customers purchase order.
- 1.3. No variance to these Terms and Conditions shall be binding upon the Supplier unless agreed in writing and signed by authorised representatives of both the Supplier and the Customer.
- 1.4. The headings in these Conditions are for convenience only and shall not affect their interpretation.
- 1.5. Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.
- 1.6. The Contract shall be subject to English Law and the jurisdiction of the English High Court.

- 1.7. The Customer shall be liable to pay to the Supplier damages for any breach of this Agreement and all expenses and costs incurred by the Supplier in enforcing its rights under this Agreement.

3. PRODUCTS

- 3.1. The Supplier undertakes that any goods supplied to the Customer shall:
 - 3.1.1. Be of merchantable quality where required to be so
 - 3.1.2. If sold by sample, then conform as relevant to that sample
 - 3.1.3. Supply, if requested and/or required, a certificate of conformity to specifications provided by the Customer
- 3.2. If any specific material or product characteristics required are explicitly indicated in writing by the Customer, and accepted in writing by the Supplier, prior to the Supplier's acceptance of the order or instruction to proceed, to reasonably meet those requirements. This acceptance shall only be attributable to the goods / services being stipulated and accepted as a requirement of the purchase.
- 3.3. Information relating to application or use does not constitute a waiver of the requirement for the Supplier to receive and accept specific material, product characteristics or requirements as noted above.
- 3.4. Requirements or requests relating to information regarding batch traceability, certificates, country of origin, manufacturing Supplier, cure dates, lifespan or use by dates must be made, and agreed to in writing prior to receipt of order.
- 3.5. We offer no guarantee regarding colour of products unless we provide explicit confirmation of this in writing prior to placement of any order.
- 3.6. Claims for damage, non conformance, shortage or non delivery will not be considered unless received by us within the following periods:
 - 3.6.1. Damage or non conformance – 2 days
 - 3.6.2. Shortage or non delivery – 10 days.
- 3.7. If a customer, or an individual on behalf of the customer, signs to confirm goods have been received in good condition, we cannot subsequently consider any claim for damage, non conformance, shortage or non delivery, regardless as to when or why any such claim may be made.
- 3.8. The Supplier will quote for and arrange the use of third party carriage for Purchase orders, samples and returns when appropriate to do so. In these situations the Supplier may provide the unique reference number for a shipment and the direct contact details for the carrier to the Customer in order to enable the Customer to enquire as to delivery progress relating to a specific order which has been despatched from the Supplier. This streamlining may relate to general enquiries regarding delivery and to situations where the delivery has not been made by the carrier before the planned point in time.
- 3.9. Customer samples or products will be held on site for one month, (if it is deemed safe to do so), after the last formal communication relating to that item/s. Unless expressly agreed in writing, customer samples or product will be disposed of, (if it is deemed safe to do so), without liability to the Supplier after one month after the last formal communication relating to that item. The Supplier will not incur any cost to return goods to source or dispose of said goods.
- 3.10. Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or any other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.

4. PRICES

- 4.1. All quotations, proposals and price lists are correct at the time of printing and all goods and services will be purchased at the price agreed by both parties.
- 4.2. Any fluctuations from the agreed terms following receipt of the purchase order will be communicated to the customer and any consequent action mutually agreed.
- 4.3. Prices and quotations given for hardware and software products are for supply only unless specifically mentioned otherwise in writing by the Supplier.
- 4.4. The following additional services may be offered to the Customer but are never included in, unless specifically outlined in, a quotation:
 - 4.4.1. Maintenance
 - 4.4.2. Servicing
 - 4.4.3. Repair
 - 4.4.4. Technical Support
 - 4.4.5. Installation Services
 - 4.4.6. Postage and packing
 - 4.4.7. Warranty – see Section 6.

5. MAINTENANCE, SUPPORT & INSTALLATION

- 5.1. The Supplier shall not be held responsible for the installation and/or operation of any product supplied to the Customer.

6. PRODUCT WARRANTIES

- 6.1. Warranties are not applied to any goods or services supplied by the Supplier unless confirmed and fully outlined in writing at the time of supply.
- 6.2. All warranties, without exception, on any Goods and Services supplied by the Supplier are only valid if and only if;
 - 6.2.1. They are used in full accordance with the manufacturer's recommendations.
 - 6.2.2. The recommended service schedule has been kept to and any and all service work, repairs, maintenance and all other interaction with the machine beyond normal operation has been completed by the Supplier and/or their appointed representative under the Supplier's written consent and/or supervision.
- 6.3. In the case of defects or faulty workmanship in products or parts thereof supplied but not manufactured by the Supplier, the Customer shall not be entitled to receive any greater benefit hereunder than shall be received by the Supplier under any guarantee or warranty given to the Supplier by the manufacturers or suppliers thereof.
- 6.4. Under warranty the Supplier will, as its option, either repair or give a replacement of equivalent quality or issue a credit to the Customer for any goods found to be defective because of faulty maintenance by the Supplier or poor workmanship provided that:
 - 6.4.1. the Supplier is notified in writing within;
 - 6.4.1.1. 2 days the Customer accepting delivery of the goods / service regarding Damage or Non-conformance
 - 6.4.1.2. 10 days of the Customer accepting delivery of the goods / service regarding Shortage or Non delivery
 - 6.4.2. The goods have been used in an appropriate manner and/or as prescribed in the operating instructions (if any).
 - 6.4.3. Upon examination by the Supplier of such goods it discloses to its satisfaction that such defects exist and have not been caused by misuse, neglect, accident, improper storage, installation or handling, or by repair or alteration not affected by the Supplier.
 - 6.4.4. The goods have not been modified and/or repaired otherwise than by the Supplier or otherwise interfered with.
 - 6.4.5. The Customer agrees to pay to the Supplier the cost as certified by the Supplier of any examination of such goods as a result of which the Supplier denies liability.
- 6.5. No warranty is given or implied by the issue of a Certificate of Conformity or Test Certificate.
 - 6.5.1. The issue of either of these documents is only valid on the date of delivery unless otherwise stated.
 - 6.5.1.1. If a date of expiry has been given on either of these documents, that date shall only be valid if the Goods remain unused up to the date of expiry.
 - 6.5.1.2. Upon the commissioning of Goods supplied, unless fault is found immediately, both of these documents will expire and become void.
- 6.6. Any warranty issued by the Supplier will only cover, without exception, the defects or faulty workmanship in products or parts thereof supplied by the Supplier. Any warranty explicitly excludes;
 - 6.6.1. Any and all costs incurred by the Customer as a result, whether direct or indirect, of the defect(s) or faulty workmanship which itself falls within the scope of the warranty.
 - 6.6.2. Any and all additional defect(s), damage, fault, injury or any other direct or indirect consequence resulting from the initial defect which itself falls under the scope of the warranty.
 - 6.6.3. Any and all costs incurred by the Customer as a result, whether direct or indirect, of the defect(s) or faulty workmanship which do not fall within the scope of the warranty.
 - 6.6.4. Any and all additional defect(s), damage, fault, injury or any other direct or indirect consequence resulting from the initial defect(s) which do not fall within the scope of the warranty.

7. RETURN OF GOODS / RECEIPT OF SAMPLES OR FREE ISSUE MATERIALS

- 7.1. Returned goods will not be accepted by the Supplier until a returns authorisation is obtained from the Supplier.
- 7.2. All goods must be returned in their original packaging with the returns authorisation clearly displayed on the outside of the packaging.
- 7.3. The goods returned must be in good condition and together with all parts and documentation pertaining to the goods which are being returned.
- 7.4. Returns not supported by a valid returns authorisation will not be deemed to have been formally accepted, even if received by a member of the Supplier's staff.
- 7.5. Materials which have been sourced to order, cut, manipulated or altered in any way prior to despatch, (e.g. from sheet or coil) cannot be returned if they have been supplied as per the specified quotation or order.
- 7.6. If the Customer wishes to be informed as to whether goods for a potential order are due to be sourced to order, cut, manipulated or altered in any way then this enquiry must be made to the Supplier in writing prior to providing any Purchase Order. For the avoidance of doubt, any valid response to this enquiry will also be given in writing.

- 7.7. The Supplier reserves the right to apply a re-stocking charge for goods which the Supplier agrees to accept as a return. This charge will vary depending upon the circumstances of the return and the Goods in question.
- 7.8. Any goods being delivered to the Supplier must be in a clean and safe condition. This includes returns, samples and free issue materials.
- 7.9. Where there are goods which may have been subject to contaminants, such as chemicals or waste, the Supplier reserves the right to require documentation to confirm that the part has either;
 - 7.9.1. not been used for the application, or
 - 7.9.2. been cleaned to an acceptable standard.
- 7.10. The Supplier reserves the right to refuse to accept goods where the customer cannot provide documentation to confirm that the goods have not been used for the application in question.

8. INCOTERMS

- 8.1. Where the delivery destination of Goods crosses national boundaries the latest edition of Incoterms shall apply to all purchases.
- 8.2. Where there is any conflict between the purchase order or these Conditions of Purchase and Incoterms, the purchase order and these Conditions of Purchase shall prevail.

9. TITLE & RISK

- 9.1. Risk of damage to or loss of the Goods shall pass to the Customer at:
 - 9.1.1. in the case of Goods to be delivered at the Supplier's premises, the time when the Supplier notifies the Customer that the Goods are available for collection;
 - 9.1.2. in the case of Goods to be delivered otherwise than at the Supplier's premises, the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods; or
- 9.2. Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, legal and beneficial title of the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods.
- 9.3. Sub-clause 9.2 notwithstanding, legal and beneficial title of the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods and any other goods supplied by the Supplier and the Customer has repaid all moneys owed to the Supplier, regardless of how such indebtedness arose.
- 9.4. Until payment has been made to the Supplier in accordance with these Conditions and title in the Goods has passed to the Customer, the Customer shall be in possession of the Goods as caretaker for the Supplier and the Customer shall store the Goods separately and in an appropriate environment, shall ensure that they are identifiable as being supplied by the Supplier and shall insure the Goods against all reasonable risks.
- 9.5. In the event that the Customer sells or transfers the Goods to a third party before legal and beneficial title has passed to him under these Conditions, the proceeds of the sub-sale or transfer (or such proportion as is due to the Supplier) shall be held by the Customer on behalf of the Supplier. The Customer shall ensure that such moneys are held separately from, and are in no way mixed with, any other moneys or funds, and that all moneys held on the Supplier's behalf are identified as such.
- 9.6. [The Supplier may, in accordance with the provisions of the Companies Act 1985, register any charge created by these Conditions.]
- 9.7. The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the goods which remain the property of the Supplier, but if the Customer does so all money owing by the Customer to the Supplier shall (without prejudice to any other right or remedy of the Supplier) forthwith become due and payable.
- 9.8. The Supplier reserves the right to repossess any Goods in which the Supplier retains title without notice. The Customer irrevocably authorises the Supplier to enter the Customer's premises during normal business hours for the purpose of repossessing the Goods in which the Supplier retains title and inspecting the Goods to ensure compliance with the storage and identification requirements of sub-clause 9.4.
- 9.9. The Customer's right to possession of the Goods in which the Supplier maintains legal and beneficial title shall terminate if;
 - 9.9.1. The Customer commits or permits any material breach of his obligations under these Conditions;
 - 9.9.2. The Customer enters into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with his creditors;
 - 9.9.3. The Customer is or becomes the subject of a bankruptcy order or takes advantage of any other statutory provision for the relief of insolvent debtors;
 - 9.9.4. The Customer convenes any meeting of its creditors, enters into voluntary or compulsory liquidation, has a receiver, manager, administrator or administrative receiver appointed in respect of its assets or undertaking or any part thereof, any documents

are filed with the court for the appointment of an administrator in respect of the Customer, notice of intention to appoint an administrator is given by the Customer or any of its directors or by a qualifying floating charge-holder (as defined in paragraph 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer.

10. CANCELLATION

- 10.1. The Supplier reserves the right at any time to refuse to accept orders and cancel any incomplete orders or to suspend any delivery, due to circumstances beyond its control. The Supplier shall not be liable for any consequential losses howsoever arising.
- 10.2. Unless otherwise agreed in writing by an authorised representative of the Supplier, any orders cancelled by the Customer will be subject to payment by the Customer in full for all work undertaken or committed by the Supplier, and/or goods and services provided or committed by the Supplier prior to the said cancellation being communicated in writing to the Supplier.
- 10.3. Unless cancellation is received in writing prior to commencement of manufacture of bespoke, non-returnable, modified or otherwise altered from standard Goods, the Customer will be liable for any and all costs incurred by the Supplier in the pursuit of completion of the order up to the point at which the Supplier can halt the progression of said order plus any and all costs incurred by the Supplier whether directly or indirectly related to the cancellation.

11. LIABILITY

- 11.1. The Supplier will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under express terms of this contract, be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the Supplier's servants or agents or otherwise) which arise out of or in connection with the supply of the Goods and/or Services.
- 11.2. The Customer shall indemnify the Supplier against all damages, costs, claims and expenses of any nature suffered by them arising from loss or damage to any equipment (including that of third parties) caused by the Customer, or its agent or employees.
- 11.3. Where the Customer consists of two or more persons such expression throughout shall mean and include such two or more persons and each or any of them. All obligations on the part of such a Customer shall be joint and several obligations of such persons.
- 11.4. The Supplier shall not be liable to the Customer or be deemed to be in breach of these terms and conditions by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations if the delay or failure was due to any cause beyond the Supplier's reasonable control.

12. PAYMENT

- 12.1. Provided that the Customer has been granted credit facilities by the Supplier, settlement terms are nett 30 days from the date of the Invoice. In the absence of credit facilities having been granted by the Supplier, payment shall be in advance.
- 12.2. The Supplier reserves the right to suspend deliveries where payment is not received in accordance with subsection 12.1 of this clause or in accordance with any alternative terms of payment agreed in writing.
- 12.3. Where payment is not made in accordance with the terms of section 12.1 of this clause, the Customer shall be liable to pay daily compounding interest on any unpaid amounts calculated at 3% above Bank of England's base calculated from day 31 following invoice date and totalled on day of payment.
- 12.4. If the circumstances or status of the Customer changes, for whatsoever reason, (e.g. bankruptcy or receivership, change of name, litigation by the Supplier, or other parties etc), the Supplier reserves the right without prejudice, to cancel or suspend trading with the Customer including orders in progress and to demand immediate settlement in full of all outstanding invoices.

13. FORCE MAJEURE

- 13.1. The Supplier shall not be liable for the cancellation by it of any order or any unfulfilled part thereof if performance by the Supplier is prevented or delayed whether directly or indirectly by any cause whatsoever beyond the reasonable control of the Supplier whether such cause existed or was foreseeable at the date of acceptance of the Customers' order by the Supplier or not and without prejudice to the generality of the foregoing any cause shall be deemed to prevent, hinder or delay

- the Supplier if the Supplier is thereby prevented, hindered or delayed from fulfilling other commitments to the Customer or to third parties.
- 13.2. In the event that either party is prevented from fulfilling its obligations under this Agreement by reason of any supervening event beyond its control including but not limited to war, national emergency, flood, earthquake, strike or lockout (subject to Sub-clause 13.3) the party shall not be deemed to be in breach of its obligations under this Agreement. The party shall immediately give notice of this to the other party and must take all reasonable steps to resume performance of its obligations.
- 13.3. Sub-clause 13.2 shall not apply with respect to strikes and lockouts where such action has been induced by the party so incapacitated.
- 13.4. If and when the period of such incapacity exceeds 6 months then this Agreement shall automatically terminate unless the parties first agree otherwise in writing.

14. Waiver

- 14.1. No waiver by the Supplier of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

15. Severance

- 15.1. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

16. Third Party Rights

- 16.1. A person who is not a party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.