

TERMS AND CONDITIONS OF SALE

Definitions:

Business Day: a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 10.5.

Contract: the contract between the Company and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

Customer: the person or firm who purchases the Goods from the Company.

Force Majeure Event: an event, circumstance or cause beyond a party's reasonable control.

Goods: the goods (or any part of them) set out in the Order.

Losses: all liabilities, damages, losses (including loss of profits, loss of business, loss of reputation, loss of savings and loss of opportunity), fines, expenses and costs (including all interest, penalties, legal costs (calculated on a full indemnity basis) and professional costs and expenses).

Order: the Customer's order for the Goods, as set out in the Customer's purchase order form.

Specification: any specification for the Goods, including any related plans and drawings that are agreed in writing by the Customer and the Company.

Company: Adnet Precision Engineering Limited (registered in England and Wales with company number 05094023).

1. Basis of contract

- 1.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 1.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer must ensure that the terms of the Order and any applicable Specification submitted by the Customer are complete and accurate.
- 1.3 The Order shall only be deemed to be accepted when the Company issues a written acceptance of the Order, at which point and on which date the Contract shall come into existence.
- 1.4 The Customer waives any right it might have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- 1.5 Any samples, drawings, descriptive matter, advertising or prototype produced by or on behalf of the Company and any descriptions or illustrations contained in the Company's catalogues or brochures (whether digital or otherwise) are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- 1.6 A quotation for the Goods given by the Company shall not constitute an offer. A quotation shall only be valid for a period of 30 Business Days from its date of issue.

2. Goods

- 2.1 The Goods are described in the Company's Specification.
- 2.2 To the extent that the Company manufactures (or appoints a third party to manufacture) the Goods in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Company against all Losses incurred by the Company as a result of any claim that the Company's use of the Specification infringes the intellectual property rights of any third party. This clause 2.2 shall survive termination of the Contract.
- 2.3 The Company reserves the right to amend the Specification if required by any applicable law or regulatory requirement or where, in its professional opinion, such change will have no material negative impact on the functionality of the Goods, and shall notify the Customer in any such event.

3. Delivery

- 3.1 The Company shall deliver the Goods to the location in the United Kingdom, set out in the Order or such other location as the parties may agree in writing (**Delivery Location**).
- 3.2 Delivery is completed on the completion of the Goods arriving at the Delivery Location.
- 3.3 Any dates quoted in the Order for delivery are approximate only, and the time of delivery is not of the essence. The Company will keep the Customer duly informed but will not be liable for any losses suffered by the Customer as a result of a delayed delivery.
- 3.4 If the Company delivers up to and including 5% more or less than the quantity of Goods ordered the Customer may not reject them, but on receipt of notice in writing from the Customer that the wrong quantity of Goods was delivered, the Company shall make a pro rata adjustment to the invoice for the Goods.
- 3.5 The Company may deliver the Goods by instalments, which it shall invoice and which the Customer shall pay for separately. Each instalment shall constitute a separate contract. Any delay in delivery of or defect in an instalment shall not entitle the Customer to cancel any other instalment.

4. Quality

- 4.1 The Company warrants that on delivery, and for a period of 12 months from the date of delivery (**Warranty Period**), the Goods shall:
 - (a) conform in all material respects with the Specification (save for any change to the specification made in accordance with clause 3.3); and
 - (b) be free from material defects in design, material and workmanship.
- 4.2 Subject to clause 4.3, if:
 - (a) during the Warranty Period, the Customer gives notice in writing to the Company within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 4.1;
 - (b) the Company is given a reasonable opportunity of examining such Goods; and
 - (c) the Customer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Customer's cost, the Company shall, at its discretion and to the extent that it agrees that such Goods do not comply with the warranty set out in clause 4.1, repair or replace the defective Goods, or refund the price of the defective Goods in full.

- 4.3 The Company shall not be liable for the Goods' failure to comply with the warranty set out in clause 4.1 if:
- the Customer makes any further use of such Goods after giving notice in accordance with clause 4.2;
 - the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage, commissioning, installation, use or maintenance of the Goods and good trade practice regarding the same;
 - the defect arises as a result of the Company following any drawing, design or specification supplied by or on behalf of the Customer;
 - the Customer alters or repairs such Goods without the written consent of the Company;
 - the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - the Goods differ from the Specification as a result of changes made in accordance with clause 3.3.
- 4.4 Except as provided in this clause 4, the Company shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 4.1.
- 4.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract. These Conditions shall apply to any repaired or replacement Goods supplied by the Company.
- 5. Title and risk**
- 5.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 5.2 Title to the Goods shall not pass to the Customer until the earlier of:
- the Company receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Company has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and
 - the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 5.4.
- 5.3 Until title to the Goods has passed to the Customer, the Customer shall:
- store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;
 - not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - notify the Company immediately if it becomes subject to any of the events listed in clause 8.1(b) to clause 8.1(d); and
 - give the Company such information as the Company may reasonably require from time to time relating to:
 - the Goods; and
 - the Customer's ongoing financial position.
- 5.4 Subject to clause 5.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Company receives payment for the Goods. However, if the Customer resells the Goods before that time:
- it does so as principal and not as the Company's agent; and
 - title to the Goods shall pass from the Company to the Customer immediately before the time at which resale by the Customer occurs.
- 5.5 At any time before title to the Goods passes to the Customer, the Company may:
- by notice in writing to the Customer, terminate the Customer's right under clause 5.4 to resell the Goods or use them in the ordinary course of its business; and
 - require the Customer to deliver up all Goods in its possession and control that have not been resold or irrevocably incorporated into another product, and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored, to recover them. The Customer shall procure entry to any such third party's premises if requested to do so by the Company.
- 6. Price and payment**
- 6.1 The price of the Goods shall be the price set out in the acceptance of the Order, or, if no price is quoted, the price set out in the Company's published price list in force as at the date of delivery.
- 6.2 The Company may, by giving notice in writing to the Customer at any time up to 5 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- any factor beyond the Company's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
 - any delay caused by any instructions of the Customer or failure of the Customer to give or delay by the Customer in giving the Company adequate or accurate information or instructions.
- 6.3 The price of the Goods exclude the amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Company at the prevailing rate, subject to the receipt of a valid VAT invoice.
- 6.4 The Company may invoice the Customer for the Goods (plus any VAT (if applicable)) on or at any time after the completion of delivery pursuant to clause 3.2.
- 6.5 The Customer shall pay each invoice submitted by the Company:
- within 30 days of the date of the invoice; and
 - in full and in cleared funds to a bank account nominated in writing by the Company, and
- time for payment shall be of the essence of the Contract.
- 6.6 If the Customer fails to make a payment due to the Company under the Contract by the due date, then without limiting the Company's remedies under clause 8, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 6.6 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

- 6.7 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 7. Limitation of liability**
- 7.1 The limits and exclusions in this clause 7 reflect the insurance cover the Company has been able to arrange. The Customer is responsible for making its own arrangements for the insurance of any excess liability.
- 7.2 References to liability in this clause 7 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence) or otherwise.
- 7.3 Nothing in the Contract limits any liability for:
- (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
 - (d) defective products under the Consumer Protection Act 1987; or
 - (e) any liability that cannot legally be limited
- 7.4 Subject to clause 7.3, the Company's total liability to the Customer shall not exceed the lesser of three times the price paid for the Order or **£25,000**.
- 7.5 Subject to clause 7.3, the following types of loss are wholly excluded:
- (a) loss of profits (including loss of anticipated savings);
 - (b) loss of sales or business;
 - (c) loss of agreements or contracts;
 - (d) loss of use or corruption of software, data or information;
 - (e) loss of or damage to goodwill; and
 - (f) indirect or consequential loss.
- This clause 7 shall survive termination of the Contract.
- 8. Termination**
- 8.1 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if:
- (a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 5 days of it being notified in writing to do so;
 - (b) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
 - (c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
 - (d) the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 8.2 Without limiting its other rights or remedies, the Company may suspend supply of the Goods under the Contract or any other contract between the Customer and the Company if the Customer becomes subject to any of the events listed in clause 8.1(b) to clause 8.1(d), or the Company reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 8.3 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 8.4 On termination of the Contract for any reason the Customer shall immediately pay to the Company all of the Company's unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the Company shall submit an invoice, which the Customer shall pay immediately on receipt.
- 8.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 8.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.
- 9. Force majeure**
- Neither party shall be liable for any delay or failure in the performance of its obligations for so long as and to the extent that such delay or failure results from a Force Majeure Event. If the period of delay or non-performance continues for 20 Business Days, the party not affected may terminate the Contract by giving not less than 5 days' written notice to the affected party.
- 10. General**
- 10.1 **Assignment and other dealings.** The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Company.
- 10.2 **Intellectual Property Rights**
- (a) Unless otherwise agreed in the Order, all intellectual property rights that belong to a party prior to the date of the Order, shall belong to the party that created such an intellectual property rights.
 - (b) Unless otherwise specifically agreed in writing by the Company, all intellectual property rights created by the Company in the creation and supply of the goods shall belong to the Company.
 - (c) To the extent that the Goods are to be manufactured in accordance with the Specification supplied by the Customer, the Customer shall indemnify the Company against all liabilities, costs, expenses, damages and losses suffered or incurred by the

Company in connection with any claim made against the Company for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Company's use of any such specification.

10.3 Confidentiality

- (a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or Company's of the other party except as permitted by clause 10.3(b).
- (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 10.3; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

10.4 Entire agreement.

- (a) The Contract constitutes the entire agreement between the parties.
- (b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it has no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

10.5 Variation.

No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

10.6 Waiver.

- (a) Except as set out in clause 1.4, a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- (b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy does not waive that or any other right or remedy, nor does it prevent or restrict the further exercise of that or any other right or remedy.

10.7 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part-provision of the Contract is deemed deleted under this clause 10.7, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

10.8 Notices.

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (ii) sent by email to the email addresses used by each party in connection with this Contract (or an address substituted in writing by the party to be served):
- (b) Any notice shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address; or
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (iii) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

10.9 Third party rights. Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

10.10 Governing law. The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

10.11 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.