



ADVANCE ENGINEERING SOLUTIONS

Advance Engineering Solutions Terms & Conditions

In these terms and conditions (“the Terms”), the following words shall have these meanings:- “Company” Advance Engineering Solutions Ltd whose registered office is at Unit E2a, Phoenix Business Centre, London, United Kingdom HA1 2SP. Registered in England: Company Number 12034749.

“Goods” the goods (including any part of parts of them) and any Special Items (as defined below) which the Company is to supply to the Buyer in accordance with these Terms; “Buyer” the corporate entity firm or person seeking to purchase the Goods from the Company; “Contract” the contract for the sale by the Company and the purchase by the Buyer of the Goods on the Terms.

“Special Items” goods ordered by the Buyer to a particular specification as identified in the Buyer’s order or an item identified on the Company’s quotation with the additional words ‘special item’.

1. THE CONTRACT

1.1 All orders for Goods are placed and accepted by the Company only under these Terms to the exclusion of any other terms and conditions (including those which the Buyer might seek to impose in any other document including any purchase order, confirmation of order or specification submitted by the Buyer).

1.2 No variation of these Terms is permitted unless accepted by the Company in writing.

1.3 Each order or acceptance of a quotation for Goods by the Buyer to the Company shall be deemed an offer to buy Goods subject to these Terms. No order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgment of order is issued by the Company or (if earlier) the Company delivers the Goods to the Buyer.

1.4 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate. Quotations are given on the basis that no Contract shall come into existence until the Company despatches an acknowledgment of order to the Buyer. Any quotation may be withdrawn at any time before receipt of the Buyer’s order and shall be deemed to be withdrawn if such is not received within 30 days from the date of quotation.

1.5 The quantity and description of the Goods shall be as set out in the Company’s quotation and any item that the Company considers to be a Special Item will be marked as such.

1.6 All samples, descriptive matter, specifications and advertising issued by the Company are for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

1.7 Unless we receive specific instructions to the contrary The Company shall be entitled to assume that anyone purchasing goods on the Buyer’s credit account is duly authorised and acting as an agent of the Buyer.

1.8 In the instance of sole traders and partnerships The Company will only discuss details of an account with the principals /account holder, unless written authorisation to the contrary is received by The Company from the Buyer.

1.9 Goods identified as special items are non-refundable and non-returnable unless agreed in writing by an authorised agent of The Company.

2.0 The Company reserves the right to refuse to accept goods returned, however, at its discretion may accept goods back into stock and impose a re-stocking fee.



2. PRICE

2.1 The price of the Goods shall be the Company's quoted price or where no price has been quoted (or a quoted price is no longer valid) the Company's [trade] list price at the date of delivery of the Goods. All prices quoted are valid for 30 days or until earlier acceptance by the Buyer, after which time they may be altered by the Company in accordance with the published trade list prices on. All prices are exclusive of VAT and all other costs and charges in relation to delivering the Goods to the Buyer including without limitation packaging, loading, unloading and insurance.

2.2 Quotations are based on prices applicable to quantities of the Goods specified. In the event of orders being placed for lesser quantities of the Goods, the Company shall be entitled to adjust the price of the Goods as ordered to take account of the variation in quantity.

3. PAYMENT

3.1 Subject to satisfactory credit checks, credit accounts are opened in the Company's sole discretion. Credit accounts will be charged at the time that delivery of the Goods (including, for the avoidance of doubt, any Special Items) takes place in accordance with Clause 4.1. Payment for Goods supplied on a credit account shall be due and payable not later than the last working day of the month following the month of delivery of the Goods. The Company shall be entitled to charge an administration fee if you elect to pay your credit account by credit card. For all non-credit account transactions payment is due in cash at the time of order or, at our discretion on delivery. Time for payment is a condition of the Contract and if the Buyer fails to comply with the Company's payment terms:

3.1.a the entire balance of the Buyer's credit account and any other sums due from the Buyer to the Company shall become payable immediately;

3.1.b the Company shall be entitled to charge the Buyer interest at five per cent per year above the Lloyds TSB Bank PLC base rate from time to time in force on all overdue accounts, such interest accruing on a day to day basis from the due date for payment under Clause 3.1 until receipt in full by the Company whether before or after judgment;

3.1.c the Buyer shall indemnify the Company against all costs and expenses (including legal costs on a full indemnity basis) incurred by the Company in recovering amounts due or exercising its rights under this Clause 3. For the avoidance of doubt, an administration fee will be charged if the Company refers the matter to its lawyers/collection agents; and

3.1.d the Company may suspend any deliveries and/or terminate the Contract.

3.2 The Buyer shall not be entitled to withhold or set-off payment of any amount payable to the Company whether by reason of any dispute or claim by the Buyer relating to the Goods or otherwise.

3.3 The Company reserves the right at any time at its discretion to demand security for payment before continuing with or delivering the Goods in satisfaction of any order notwithstanding any subsisting agreement to provide credit to the Buyer.

3.4 The Buyer shall reimburse to the Company the entire costs of representing any cheque or other method of payment delivered to it in payment of any sum due by the Buyer. Without prejudice to Clause 3.1.c, the Company reserves the right to charge the Buyer a fee in respect of any dishonoured cheque or other failed method of payment tendered in payment by or on behalf of the Buyer.

3.5 Queries on invoices must be received in writing by the Company within 21 days from the date of invoice.

3.6 The Company shall at any time be entitled to appropriate (or apply) any payment made by the Buyer in respect of any Goods in settlement of such invoices or accounts in respect of such Goods as the Company may in its absolute discretion think fit notwithstanding any attempted appropriation to the contrary by the Buyer.



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3.7 Without limiting any other right or remedy, the Company may cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer if:

3.7.a The Buyer commits a material breach of this Contract (and in the case of such a breach being remediable fails to remedy it within 7 days of receiving notice to do so); or

3.7.b The Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or,

3.7.c the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or

3.7.d the Buyer encumbers or in any way charges any of the Goods AND in any event, all sums owing to the Company on any account shall become due and payable immediately without requirement for any notice to be given, and further the Buyer's right of possession and power of sale and use in clause 6 shall automatically cease.

4. DELIVERY

4.1 Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place:

4.1.a If the Buyer is collecting, when the Goods are made available for collection at the Company's place of business or at the premises of the suppliers to the Company as the case may be; or

4.1.b If the Company is delivering or arranging delivery, when the Goods are ready for unloading at the Buyer's address or such other address notified by the Buyer to the Company in writing.

4.2 The Buyer shall take delivery of the Goods within 14 days of the Company giving it notice that the Goods are ready for delivery.

4.3 Any delivery dates specified for the Goods are estimates only. The Company will use reasonable endeavours to meet a delivery date, but time of delivery is not a condition of the Contract.

4.4 Subject to the other provisions of these Terms, the Company shall not be liable for any direct, indirect or consequential loss (which terms include without limitation pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss) costs, damages, charges or expenses whatsoever or howsoever arising caused by any delay in the delivery of the Goods. Notwithstanding that the Company may have delayed or failed to deliver the Goods (or any of them) promptly the Buyer shall be bound to accept delivery and to pay for the Goods in full provided that the Goods are delivered at any time within one month of the estimated delivery date.

4.5 The Company may make delivery by instalments and supply a separate invoice in respect of each instalment. Each instalment (or separate order for Goods) shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment or separate order for Goods shall entitle the Buyer to repudiate or cancel any other Contract or instalment or separate order for Goods.

4.6 The Buyer (or its representative or agent) shall sign the delivery ticket as acknowledgement of delivery and the Company is entitled to assume that any signature given at the address given for delivery is that of a duly authorised representative of the Buyer. The Buyer shall provide at its own expense adequate and appropriate manual labour and equipment for loading and unloading the Goods.



4.7 If for any reason the Buyer fails to take delivery of the Goods when they are ready for collection or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:

4.7.a Risk in the Goods shall pass to the Buyer;

4.7.b The Goods shall be deemed to have been delivered; and

4.7.c The Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including storage and insurance).

5. INSPECTION

5.1 The Buyer shall inspect the Goods upon delivery and shall within 3 working days of delivery notify the Company in writing of any errors in quantity or other failure to comply with the quotation given. If the Buyer fails to comply with these provisions the Goods shall be conclusively presumed to be in accordance with the Contract and the Buyer shall be deemed to have accepted the Goods.

5.2 In all cases where the Company receives details of such errors in accordance with Clause 5.1 the Company shall be under no liability in respect thereof unless a reasonable opportunity to inspect the Goods is provided to the Company before any use is made thereof or any alteration or modification is made to the Goods by the Buyer.

5.3 Subject to Clauses 5.1 and 5.2, the Company shall make good any shortage in the Goods and where appropriate replace the Goods, as soon as it is reasonably able to do so, but otherwise shall be under no liability whatsoever or howsoever arising from such errors in delivery.

6. TITLE AND RISK

6.1 Risk in the Goods shall pass to the Buyer at the time of delivery.

6.2 The title to (or ownership of) the Goods sold by the Company to the Buyer shall remain with the Company until the Company has received in full (in cash or cleared funds):

6.2.a the price plus VAT in full for those Goods; and

6.2.b all other sums owed by the Buyer to the Company on any account or goods whatsoever.

6.3 The Buyer is licensed by the Company to use or sell the Goods delivered to the Buyer in the ordinary course of business at full market value subject to the express condition that the entire proceeds of any sale are held in trust for the Company and are not mixed with other moneys or paid into an overdrawn bank account and shall at all times be identifiable as the Company's money.

6.4 Until ownership of the Goods passes to the Buyer in accordance with Clause 6.2:

6.4.a the Buyer will hold the Goods and each of them on a fiduciary basis as bailee for the Company;

6.4.b the Buyer shall keep the Goods separate and distinct from all other property of the Buyer and of third parties and in good and substantial repair and condition and be stored in such a way as to be clearly identifiable as belonging to the Company and the Buyer will not allow any interference with any identification marks or serial number on the Goods;

6.4.c Without prejudice to any other rights the Company may at any time withdraw the power of sale and use contained in clause 6.3 by notice to the Buyer if the Buyer is in default for longer than 14 days in the payment of any sum whatsoever due to the Company whether in respect of the Goods or any other goods supplied at any time by it to the Buyer or if the Buyer is subject to any insolvency event described under Clause 3.7.b or if the Company has genuine doubts as to the solvency of the Buyer.



6.5 Until such time as ownership of the Goods passes from the Company to the Buyer, the Buyer shall place any of the Goods in its possession or under its control and unsold at the disposal of the Company and the Buyer hereby grants the Company and its employees, representatives or agents an irrevocable licence to enter upon any premises of the Buyer or any premises under the Buyer's control or to which the Buyer has a right of access for the purpose of inspection, repossession and removal of such Goods at any time.

7. WARRANTY

7.1 The Company warrants that it has title to and the unencumbered right to sell the Goods.

7.2 Subject to Clause 8.2. no representation or warranty is given as to the suitability or fitness of the Goods for any particular purpose and the Buyer shall be wholly responsible and satisfy itself in this respect.

7.3 If any defect caused by faulty design, manufacture, materials or workmanship (but not abnormal use, misuse or neglect by the Buyer) is discovered, the Company will in its absolute discretion either: repair the Goods at its own expense or; replace the Goods or; refund the purchase price of the Goods.

7.4 The Buyer cannot claim the benefit of Clause 7.3 unless: the defect is discovered during the period of 3 months commencing with the date of despatch; the Buyer informs the Company of the relevant defect in writing within 3 working days of discovering it; and the Buyer returns the Goods to the Company at its own expense.

7.5 The risk of loss or damage whilst the Goods are being returned will be borne by the Buyer.

8 LIMITATION AND EXCLUSION OF LIABILITY

8.1 Subject to Clauses 4 and 7, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of any breach of the Contract, any use made or resale by the Buyer of any of the Goods or of any product incorporating any of the Goods, any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

8.2 Subject as expressly provided in these Terms and save for the conditions implied by Section 12 Sale of Goods Act 1979 no other terms, whether conditions, warranties or innominate terms, implied by statute or common law shall form part of this Contract and are excluded to the fullest extent permitted by law.

8.3 Nothing in this Clause 8 shall be deemed to exclude or restrict the Company's liability: for death or personal injury resulting from the Company's negligence; under section 2(3) Consumer Protection Act 1987; for fraud or fraudulent misrepresentation; or for any other matter which it would be illegal for the Company to exclude or attempt to exclude its liability.

8.4 The Company shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) arising out of or in connection with (including arising from the Company's negligence) this Contract.

8.5 Without prejudice to any other provision of this Contract, in any event the Company's total liability for any one claim or for the total of all claims arising from any one act or default of the Company (whether arising from the Company's negligence or otherwise) shall not exceed the contract price of the Goods. The Company is willing to undertake the additional liability to that provided by this clause if a higher selling price for the Goods is agreed between the parties.



8.6 Each of the sub-clauses in Clause 8 is to be treated as separate and independent and capable of severance.

9 FORCE MAJEURE

The Company shall not be liable for any failure to perform its obligations under the Contract including cancelling an order, deferring the date of delivery or reducing the volume of the goods ordered if the Company has been prevented or delayed in carrying out its business due to circumstances or events outside its reasonable control including without limitation an Act of God, war, terrorism, riot, explosion, extreme weather conditions, fire, flood, strikes, lockouts, acts, restrictions, bye laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority accidents and shortage of materials, labour or manufacturing facilities. If the event in question carries on for a continuous period in excess of [90] days, the Buyer may give notice in writing to withdraw the order for Goods.

10 GENERAL

10.1 Any notice to be given hereunder shall be in writing and shall be delivered by hand, first class post or fax to the party concerned at its address specified overleaf or such other address as that party may from time to time notify in writing and shall be deemed to have been served on the day of delivery if by hand, two days after posting (excluding weekends and bank and public holidays) if sent by post, or at the time of transmission if sent by facsimile transmission on a working day prior to 4.00pm or otherwise on the next working day.

10.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be illegal, void, voidable, unenforceable or unreasonable in whole or in part, it shall to the extent of such illegality, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision affected shall remain in full force and effect.

10.3 Failure or delay by the Company in enforcing or partially enforcing any provision of this Contract shall not be construed as a waiver of any of its rights under the Contract. Any waiver by the Company of any breach of, or default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

10.4 The Company may assign the Contract or any part of it to a third party. The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

10.5 The parties to this Contract do not intend that any provision of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

10.6 Subject to Clause 10.7, the Contract shall be governed by and construed in accordance with English law and all disputes arising in connection with the Contract shall be submitted to the jurisdiction of the English Courts.

10.7 If the Buyer is domiciled in Scotland (according to the Civil Jurisdiction and Judgments Act 1982) or the Goods are delivered to the Buyer in Scotland, the Company may elect that the Contract shall be governed by and construed in accordance with Scottish law and/or all disputes arising in connection with the Contract shall be submitted to the jurisdiction of the Scottish Courts.

10.8 A reference to a statute, statutory provision or subordinated legislation is a reference to it as it is in force from time to time, taking account of any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.