



ADV Brightware Manufacturing Limited Conditions of Sale

1. ACCEPTANCE

- a. All quotations are given and all orders are accepted only on these conditions of sale ("the Conditions") unless expressly agreed otherwise in writing. Unless previously withdrawn, the quotation of ADV Brightware Manufacturing Ltd ("the seller") expires in thirty (30) days after the date thereof.
- b. No quotation is an offer of sale capable of acceptance so as to create a binding contract.
- c. All orders placed with the seller require their acceptance in writing before any contract arises. Each accepted order shall constitute an entire & separate contract to which these conditions shall apply.

2. PRICE

- a. Goods will be involved at the prices ruling at the date of despatch. Seller reserves the right to increase the price without notice to extent that the cost to the seller of producing or procuring the goods has increased.

3. PAYMENT

- a. Prices quoted are exclusive of VAT. Payment must be received on or before the 30th of the month following the month of invoice. All payments shall be made without any deduction or set-off what so ever.
- b. If any payment is overdue, seller reserves the right to suspend any further deliveries and to charge interest on the amount due as well after as before judgement.
- c. Seller reserves the right at any time to demand full or partial payment before proceeding further with an order.

4. DELIVERY

- a. Any delivery date or period specified by seller is an estimate only and is not of the essence of the contract. Seller shall not be liable for any loss or damage (including consequential loss) howsoever sustained by Buyer as a result of failure to deliver on such date or within such period.

5. RISK AND TITLE

- a. Risk in the goods shall pass to Buyer upon delivery provided that where delivery is withheld or delayed by reason or any default or Buyer, risk shall pass to Buyer at such time that the Seller would have delivered had such withholding or delay not occurred.
- b. Title in goods shall remain in Seller until such time as Seller shall have received in full therefore.
- c. Until such time as title passes to Buyer the Seller shall be entitled at any time to repossess and resell any or all of the goods and for such purpose Seller shall have an irrevocable licence to enter upon any premises where the goods may be situated with such transport as may be necessary and Buyer shall render all reasonable assistance to Seller to enable the Seller to recover the goods.
- d. Until such time as title passes to Buyer, Buyer shall store the goods separately from those supplied by other parties and in such a manner as they can be clearly identified as the property of Seller.

6. DAMAGE OR LOSS IN TRANSIT

- a. Any claims by Buyer in relation to goods damaged upon delivery or for non-delivery must be made in writing to Seller: in the case of goods damaged upon delivery the claim must be in writing with a separate notice to the carrier both within ten (10) days of delivery. In the case of non-delivery of a whole or part consignment a separate notice in writing must be given to the carrier concerned and a complete claim in writing made on the Seller both within the ten (10) days of date of invoice.
- b. Where goods are accepted without being examined, the delivery note of the carrier concerned must be signed "not examined".
- c. The goods, the subject of any claim for damage, shall be preserved intact (including packaging) for a period of ten (10) days from notification of the claim within which time Seller shall have the right to attend a Buyer's premises to investigate the claim.

7. WARRANTY

- a. Seller warrants that the goods at the time of delivery shall be free from defects in design, workmanship and materials. If any goods do not conform to that warranty Seller will at it's option (i) replace the goods found not to conform to the warranty; (ii) take such steps as Seller deems necessary to bring the goods into a state where they are free from such defects; or (iii) take back the goods found not to conform to the warranty and refund the appropriate part of the purchase price: PROVIDED THAT the liability of the Seller shall in no event exceed the purchase price of the goods and performance of anyone of the above options shall constitute an entire discharge of Sellers liability under this warranty.



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- b. The foregoing warranty is conditional upon:
 - i. Buyer giving notice to the Seller of the alleged defect within thirty (30) days of the time when Buyer discovers. Or ought to have discovered the defect
 - ii. Buyer affording Seller reasonable opportunity to inspect the goods and, if so requested by Seller, returning the alleged defective goods to Seller's works, carried pre-paid (subject refund in the event that the claim is found to be justified), for inspection to take place there.
 - iii. No repairs or alterations having been carried out to the goods without the prior approval of the Seller;
 - iv. The goods having been handled, stored, used and maintained properly carefully and in accordance with any instruction issued by the Seller; and
 - v. The goods being suited to the function for which they were used.
- c. The undertaking contained in paragraph (a) does not apply to goods or any part thereof manufactured by Seller or to any finishes applied by Seller.
- d. Save as provided above and is reasonable in law, all conditions and warranties, express or implied, as to the quality, fitness for purpose, merchantability or durability are hereby expressly excluded.
- e. All recommendations and advice given by or on behalf of Seller to Buyer as to the methods of storing, applying or using the goods, the purpose to which the goods may be applied and the suitability of using the goods in any manufacturing process or in conjunction with any materials or for any other purpose are given without liability on the part of the Seller, its servants or agents.

8. LIABILITY

- a. Except in respect of death or personal injury caused by seller's negligence, Seller shall not be liable to the buyer by reason of any representation, or any express or implied warranty or condition for any consequential or indirect loss or damage (whether for loss of profits or other costs, expenses or other claims whatsoever [and whether caused by the negligence of the Seller or otherwise]) which arise out of or in connection with the supply of goods of their use by the buyer, except as expressly provided by these conditions.

9. THIRD PARTY CLAIMS

- a. Buyer shall indemnify Seller against all claims, losses damages or expenses suffered or incurred by seller as a result of any claim by third party arising out of or in connection with the sale of goods.
- b. Where goods are manufactured to the design, drawings, specifications, instructions or materials of buyer, Buyer will indemnify seller against all loss, damage, costs and expenses whatsoever awarded against or incurred by seller or in connection with any claim or allegation (or paid or to be paid in settlement thereof) that goods infringe the patent, copyright, design, trademark or other intellectual property right (Including confidential information) or any third party, or that the goods do not comply with any legislation, regulation or requirement from time to time in force.

10. TOLERANCES

- a. Unless overridden by contractual requirements, the Seller will work to metric dimensions, and all goods will be made to BS EN 22768-1 designation v.

11. QUANTITY VARIATION

- a. Unless specified the company reserves the right to supply 5% more or less than the quantity ordered by each item.

12. TOOLS

- a. Dedicated tools and jigs charged to the buyer will remain with the seller during the period of manufacture. When there is no contract to manufacture goods for which the dedicated tools relate the seller will notify the buyer that the dedicated tools and jigs will be returned to the buyer or stored at the seller's premises in both cases at the buyer's cost. The seller will submit a quotation for transport and/or storage cost to the buyer.

13. TESTS AND INSPECTIONS

- a. Unless otherwise agreed in writing all tests and inspections specified by the buyer, implied by the order or customary to seller's practice, shall be seller's works and shall be final.

14. FORCE MAJURE

- a. Seller shall not be responsible for any loss or damage caused by delay in the performance or non-performance of any of its obligations hereunder where the same is occasioned by any cause whatsoever that is beyond the seller's reasonable control.
- b. Non exhaustive illustrations of such circumstances would be an "act of god"; War (whether declared or not); civil disturbance; requisitioning; governmental (UK or otherwise) regulations; strike; lock-out or industrial dispute (whether involving its own employees or those of any other person); difficulties in obtaining workmen or materials including (but not limited to) fuel, breakdown of machinery or shortage of manufacturing facilities; accident: non-availability or delay of vessels or other transport.



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- c. Should any such event occur Seller might cancel or initially suspend then cancel the contract without incurring any liability for any loss or damage thereby occasioned.
- d. Seller shall not be liable for any loss or damage whatsoever occasioned by such force major event.

15. BREACH

- a. If buyer shall default on or commit any breach of any of its obligations to seller or if any distress or execution shall be levied of any of buyers property or if buyer shall make or offer any arrangement or composition with its creditors or if buyer is a limited company or resolution or petition to wind up its business except for the purpose of reconstruction or amalgamation is presented or passed or a receiver or an administrator is appointed of such company's undertaking, property, assets or any part thereof or if buyer is an individual, is the subject bankruptcy petition, then seller may without prejudice to any other right available to seller be entitled forthwith on written notice to terminate any contract then subsisting with buyer.
- b. In addition to the forgoing, Buyer shall indemnify Seller against all claims, demands costs, expenses and liabilities of whatsoever nature including, without prejudice to the generality of the forgoing, claims for death, personal injury, damage to property or consequential loss (including loss of profits) which may be made against Seller or which Seller may pay, sustain or incur arising out of or in connection with any such breach.

16. SEVERENCE

- a. In the event of any condition herein shall be held by any court of other body having jurisdiction to be enforceable, illegal or otherwise invalid. It shall be deleted and the remaining provisions shall continue in full force and effect PROVIDED ALWAYS that IF either party any such deletion effects the commercial arrangement between the parties it may give notice in writing to terminate the agreement.

17. ASSIGNMENT

- a. Buyer shall not assign of any transfer or purport to assign or transfer any contract to which these conditions apply, or the benefit thereof, to any other person whatsoever.

18. GOVERNING LAW

- a. The construction, validity and performance of these conditions and any contract made hereunder shall be governed in all respect by English law and Buyer hereby submits to the jurisdiction of the English court.

19. EXPORT CONTRACTORS

- a. The following additional provisions will apply to any order for the sale of goods when goods are exported outside the United Kingdom.
 - i. Orders are accepted subject to Seller receiving any necessary export licenses.
 - ii. Buyer shall be solely responsible for the payment of all import duties, charge and assessments and the obtaining of any necessary import licenses, unless otherwise agreed.
 - iii. Any term or expression which is defined by Incoterms (Edition 1990) shall have the same meaning in these conditions, but if there is any conflict between incoterm and these conditions, the latter will prevail.
 - iv. Whether goods are sold FOB seller shall be under no obligation to give buyer notice in accordance with section 32(3) of the sale of goods act 1979.
 - v. All claims for damage or loss in transit must be accordance with the instructions of the seller's insurance company, details that are given on the insurance certificate with the applicable shipping documentation.

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