

CONDITIONS OF SALE

Orders are accepted on condition that the following Conditions of sale are accepted by the Customer to the exclusion of the Customer's conditions and any other conditions of business written or implied and that in the event of resale the Customer undertakes the responsibility of ensuring that the Ultimate Purchaser is fully acquainted with the said Conditions of Sale.

1 INTERPRETATIONS

For the purpose of the contract the terms listed shall bear the meanings ascribed thereto.

- (a) "ABS Ltd" means Aluminium Bending Specialists Limited.
- (b) The "Customer" means the person, firm or company or corporation with whom the contract is made.
- (c) The "Contract" means the contract for the sale of goods between ABS Ltd and the customer set out in the Acknowledgement of Order of which these terms and conditions form part.
- (d) The "goods" means all or any of the goods or services described in the contract or any goods or services in replacement thereof.
- (e) The "Ultimate Purchaser" means the person, firm or company or corporation who receives the Goods produced by ABS Ltd.

2 QUOTATION

- (a) ABS Ltd shall supply to the customer a quotation that is ex-works and Net of Value Added Tax or any other similar tax or levies.
- (b) Where a fixed price is quoted such price will be the Contract price (unless varied in accordance with the provisions of these conditions) providing delivery of the materials to be processed for production bends is completed within 60 days of the date of the quotation.
- (c) ABS Ltd quotations (excluding fixed price quotations) are based upon the cost of materials, labour, transport, fuel, other relevant factors and statutory obligations applying at the time of the quotation, if between that date and the date of actual delivery variations shall occur, then the contract price shall be amended to provide for these variations.

3 TEMPLATES, DRAWINGS, SPECIFICATION

The Customer shall provide ABS Ltd with a written order giving details of the materials to be processed together with the specification of the work to be carried out to the reasonable requirements of ABS Ltd. The Customer acknowledges that the process entails an element of trialing that may produce wastage and accepts that a greater quantity of the material may be required to comply with the order than originally estimated by the Customer. Where the Customer provides a template and specification it is agreed that the specification shall apply to the conclusion of the template. Where the customer provides a template without specification or where not all the specifications are provided, ABS Ltd reserves the right to require full specifications as a precondition to proceeding.

4 STATUTORY OBLIGATIONS

(a) The responsibility for the observance of the requirements of all obligations the performance of which are necessary to comply with the Law of the Country where the Goods are to be sold or further processed rests with the Customer, who hereby agrees to indemnify and keep indemnified ABS Ltd from and against all liability for loss, claims, damages, costs, interests and other liability whatsoever (on a full indemnity basis) which ABS Ltd may suffer pursuant to all statutory obligations under the said law or by reason of non-compliance with any of the said obligations.

5 THE PRODUCTION PROCESS

- (a) Trials
 - (i) Orders are accepted conditional to the production of satisfactory trial bends. Upon completion of the trials ABS Ltd may elect to proceed with the production bends or where considered applicable by ABS Ltd request inspection and approval by the customer of the trial bends.
 - (ii) If the trial bends do not meet the specification either of either the Customer or ABS Ltd may elect that the contract be terminated, in this case all costs incurred by ABS Ltd including tooling, will become payable by the customer.
 - (b) Production bends
 - (i) Upon receipt of the materials and/or order to be processed ABS Ltd shall provide an estimated date of completion in respect of the production bends. Such estimated dates are business estimated only and time shall not be of the essence and ABS Ltd shall not be liable to the customer for any loss of damage sustained by the Customer as a result of ABS Ltd failure to comply with such completion dates.
 - (ii) When the goods, the subject of the contract, are complete ABS Ltd shall notify the customer as soon as possible.
 - (iii) ABS Ltd shall be responsible only for ensuring that the production bends are carried out to within reasonable limits of the specification, (it is herewith agreed that any bend within 2.5mm or 0.5% of the inside radius whichever is the greater either way of the specification shall be deemed to comply with the specification). ABS Ltd shall have no further responsibility with regard to the production bends and the customer shall not be entitled to reject the goods or claim any breach of contract in respect thereof.
 - (iv) Where any of the goods do not conform to the specification, the Customer must advise ABS Ltd in writing within 3 days of receipt of the Goods. ABS Ltd may elect to re-process any such goods or otherwise treat them to bring them to such conformity.
 - [a] Where notwithstanding any such treatment of any of the goods which do not conform ("the rejected pieces") the customer shall accept all the Goods that so conform whereupon the full production bends fee shall be payable in respect of each of the Goods which do not conform and either:
 - [b] Require ABS Ltd to process further pieces of material to be supplied by the customer equal in number to the rejected pieces in which event the provisions in clause 5(b) (i-iv) shall apply to the materials and goods.
 - [c] Elect to treat the contract at an end.
 - (v) It is herewith accepted by the customer that additional material may be required for the following:- [a] trialing purposes, [b] setting up of machines for each batch quantity, [c] rejects during production.
 - (vi) The title to all materials supplied to ABS Ltd which do not produce approved goods shall vest in ABS Ltd and no credit shall be allowed to the customer therefore.
 - (vii) No fee shall be payable by the customer for each original rejected piece. Where the customer elects to require reprocessing in accordance with sub-clause 5(b)(iv) hereof then full production bend fee shall become payable in respect of all subsequent rejected piece (other than the original) a fee equivalent to the test bend fee shall become immediately due and payable by the customer upon inspection by the customer or its agents.

6 CUSTOMERS MATERIALS

(A) Whilst ABS Ltd undertakes to take all reasonable care of the Customers materials in its possession, ABS Ltd accepts no responsibility for any distortion, damage, defects or faults therein which appear or develop during the course of the work undertaken by

ABS Ltd. Without prejudice to the generality of this clause where the customer supplies painted or anodised materials for processing ABS Ltd accepts no responsibility for any distortion, damage, defects or faults which appear in or to the paint or anodising notwithstanding the otherwise successful bending of such materials. All materials received by ABS Ltd for processing or otherwise are held by ABS Ltd at the customers risk as regards damage or loss except the cause of the damage or loss was the result of the negligence of ABS Ltd and its servants or agents.

(B) When processing customers materials every effort is made to meet the requirements of the customer from the information supplied by them. When materials are supplied by the customer and it is the customer and not ABS Ltd who is in a position to establish the precise composition of such materials no responsibility is accepted by ABS Ltd as to the suitability of the materials for processing.

7 COMPLETION DATES

(a) Whilst delivery and completion dates are given in good faith based on the information available to ABS Ltd at that time, such dates are not guaranteed and ABS Ltd shall not be liable to the customer for any loss or damage sustained by the customer or any third party as a result of ABS Ltd failure to comply with such delivery or completion dates and no delay shall entitle the customer to reject any delivery or further instalment or part of the order or to repudiate the contract of part thereof or to claim and damages or compensation in respect of the delay.

(b) ABS Ltd shall not be liable 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 ABS Ltd's control including but not limited to act of God, force majeure, fire, flood, strikes (whether involving ABS Ltd's employees of those of another party,) lockout or other labour dispute, accident to or breakdown of machinery, shortage of labour or materials or delay in transport, civil commotion, insurrection, embargoes, quotas, acts or restrictions of government, import or export regulations or any other event beyond the control of ABS Ltd.

(c) Where the customer requests ABS Ltd that delivery be advanced by the working of overtime by ABS Ltd then unless the quotation expressly includes such overtime, the contract price shall be adjusted to include such amounts as shall indemnify ABS Ltd for all extra costs, wages and overheads so incurred.

8 ACCEPTANCE & STORAGE

(A) The customer shall promptly accept the goods when they are delivered or tendered for delivery in accordance with the contract. In the event of the customer failing to so accept the goods or giving ABS Ltd forwarding instructions within one month after notification that the goods are ready, the customer shall (in addition to any other liabilities which it may have to ABS Ltd) be fully liable for all costs, charges and expenses, incurred as a result directly or indirectly of its failing to accept the goods.

(b) Whilst it is ABS Ltd normal policy to deliver or make available goods in or on the customer shall accept delivery or availability by instalments or split deliveries and each instalment or part delivery shall be considered a separate transaction which shall not affect the rights or liabilities of either party under the contract as to the other instalments or part deliveries.

9 DELIVERY

- (A) Delivery of the goods will take place when (i) the customer or his agent signs the delivery note, and all risk will thereupon pass to the customer. (ii) five days from written notification by ABS Ltd to the customer that the goods are completed.
- (b) ABS Ltd accepts no responsibility for loss or damage to the goods howsoever arising after delivery has taken place.
- (c) Where ABS Ltd itself has agreed to undertake transport ABS Ltd accepts responsibility only for repair or replacement of damaged or lost goods where the cause of damage or loss was the negligence of ABS Ltd employees. Customers are strongly recommended to make suitable insurance arrangements in respect of goods in transit out of ABS Ltd works by carriers. Claims in respect of loss or damage should be made direct to the carrier concerned.
- (d) carriage to and from ABS Ltd will be sent at customers expense.

10 PACKAGING

ABS Ltd will provide standard packing to the goods prior to despatch from its works. The customer or its agents shall have the opportunity to inspect the packing upon collection, and may request special packing in lieu of ABS Ltd standard packing. The customer may be charged extra for all special packing. In all circumstances ABS Ltd accepts no liability whatsoever for the adequacy or suitability of the packing whether standard or special, and whether authorised as agents for the customer under clause 9(c).

11 TITLE TO GOODS

- (a) It is hereby expressly agreed by the customer that the property in all materials shall pass to ABS Ltd upon its delivery to ABS Ltd as security for the customer's liabilities to ABS Ltd arising under these conditions of sale.
- (b) Notwithstanding the delivery of the goods or any part thereof in pursuance of this contract, the goods shall remain the sole and absolute property of ABS Ltd as legal and beneficial owner until such time as the customer shall have paid in full all sums due to ABS Ltd under these conditions of sale.
- (c) ABS Ltd reserves the right to determine the contract for the processing of materials at any time after payment has become due and before payment in full has been received by ABS Ltd and in that event ABS Ltd or its authorised agents reserves the right to enter any premises in which any goods are kept and recover possession of such goods.
- (d) Notwithstanding that the agreed price has not been paid and that the customer holds the goods as bailee, the customer shall have a licence to sell the goods in the normal course of its business provided that any goods received in exchange for the goods, or any proceeds of sale therefore are held by the customer as trustee for ABS Ltd in a separate bank account, and the customer shall assign to ABS Ltd absolutely the benefit of any such contract of sale.
- (e) In the event that the customer has not received the benefit of such sale or disposal he will if called upon to do so assign ABS Ltd within 7 days of being called upon to do so all rights the customer has against any third party in respect of the sale or disposal.

12 PAYMENT

- (a) Unless otherwise stated all prices are net ex-works.
- (b) Unless agreed in writing with ABS Ltd contracts with new customers are paid on a pro-forma basis and all orders with a net value of £1,000 or less are subject to payment on collection.
- (c) In all other cases, subject to credit being approved the customer shall make payment not later than 30 days from the date of invoice.

(d) Where goods are delivered or are available by instalments each consignment will be invoiced as delivered and each months invoices will be treated as a separate account and be payable accordingly.

(e) If any payment to be made hereunder by the customer is overdue, interest shall be chargeable there on from the day any sum becomes overdue until the sum due is paid with interest. Interest shall be paid at the rate of 4% above base rate from time to time of HSBC Bank Plc.

(f) ABS Ltd reserves the right where a customer fails to abide strictly to the payment terms herein or where genuine doubts arise as to the customers financial position to suspend delivery under this contract or any part or instalment thereof without liability, until payment or satisfactory security for payment has been received.

(g) Time of payment shall be of the essence and failure to make payment on the due date shall entitle ABS Ltd at its option to treat the contract as repudiated and act accordingly. Without prejudice to the foregoing failure by the customer to pay for any goods on the due date applicable thereto shall (without prejudice to any other remedies which it may have) entitle ABS Ltd at its option to cancel or delay any undelivered goods of works whether under this or any other contract.

(h) ABS Ltd may having given the customer 30 days notice thereof sell by public auction or private treaty sufficient of any of the goods or materials then in the custody of ABS Ltd on this or any other contract to discharge such overdue account (provided that ABS Ltd shall account to the customer for any costs of such sale in excess of the overdue amount and interest thereon) without prejudice to any other rights ABS Ltd may have.

(i) Payment for goods delivered outside the United Kingdom must be made against delivery of the goods or shipping documents f.o.b. UK port unless credit arrangements approved by ABS Ltd have been agreed in writing.

13 LICENCES

The customer shall be responsible in all instances for obtaining and necessary import/export licences, permits or authority necessary and to ensure compliance with all regulations governing admission or transfer of the goods into the country of destination and for payment of all duties, levies or charges howsoever incurred.

14 PATENTS

The customer shall fully indemnify ABS Ltd against all actions, costs (including the cost of defending any legal proceedings) claims, proceedings, accounts and demands in respect of any infringement of patent rights, copy rights, registered design or other intellectual property or protected rights which result from compliance with the customers instructions whether expressed or implied.

15 RESTRICTIONS ON ABS LTD LIABILITY

(a) ABS Ltd accepts no responsibility for damages, direct consequential, contingent or resulting loss, loss of profit, costs, charges, expenses or other liability, whether of the customer or any other party, howsoever arising, but within the bounds or reasonableness, ABS Ltd's responsibility being strictly limited to rectification or replacement as set out in these conditions of sale. In no circumstances shall any such responsibility arise after the customer or his agents has begun to erect, assemble or use any of the goods or subject them to any process of any nature whatsoever. Such rectification or replacement shall be made as quickly as possible, but ABS Ltd shall require a reasonable time to effect this. A claim in respect of any defect or failure to comply with the specification or in respect of and delivery or instalment of an order or any part thereof shall not entitle the customer to cancel or refuse delivery of or payment for any other order, delivery or instalment or any part of the same order delivery or instalment.

(b) Subject to the aforesaid, all expressed or implied warranties, conditions, representations, undertaking or liabilities, whether imposed by statute, common law, custom or otherwise regarding damages or loss are hereby expressly excluded in so far that such matters are within the bounds of reasonableness and in light of these conditions of sale, in particular without impairing the generality of the foregoing, no statement or description contained in any catalogue, or advertisement issued by ABS Ltd or its agent, or any other communication from ABS Ltd made verbally or in writing by any ABS Ltd employee, agent, representative or officer, shall give or imply or be construed as giving or implying any such warranty, condition, representation, undertaking or liability as aforesaid nor shall such statement of description enlarge vary or override or be construed to enlarge vary or override in any way the conditions herein contained.

16 MISCELLANEOUS

- (a) The invalidity, illegality or unenforceability for any reason of any part of the contract shall not affect the validity, legality, or enforceability of the remainder.
- (b) Any notice or other communication required or permitted to be given under the contract shall be in writing and shall be served on ABS Ltd and the customer respectively by delivering the same or sending it by facsimile transmission or by first class post, to the normal office of the respective party. Such notice shall be deemed to have been served at the expiration of forty eight hours after posting of the same correctly addressed has been put in the post or at the expiration of twenty four hours after transmission in the case of a facsimile transmission.
- (c) The headings used in these terms and conditions are for the purpose of convenience and identification and are not to be taken as limiting in any way the scope or possible construction of any clause.
- (d) These terms may be varied only by agreement in writing between the parties and such agreement must be made on behalf of ABS Ltd by a person authorised (being a director of ABS Ltd and known to the customer to be so authorised) by ABS Ltd and no other action on the part of ABS Ltd (whether delivery of the goods or otherwise), shall be construed as an acceptance of any other terms and conditions whatsoever.
- (e) ABS Ltd reserves the right to sub-contract without prior consent of the customer.

17 GOVERNING LAW

The contract and the rights of the parties hereto shall be governed by and interpreted in accordance with English law. The customer hereby irrevocably agrees to submit to the jurisdiction of the English courts and waives any objection to any legal proceedings in the said courts on the grounds of venue of forum non conveniens.