

Terms and Conditions of Sale

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1. Definitions

The 'Company' means Adapt ems Ltd.

The 'Buyer' means the contracting party.

The 'Products' include all the goods and services supplied by the Company.

The 'Order' means the order placed by the Buyer with the Company for the Product(s).

The 'Contract' shall mean the contract made between the Buyer and the Company for the Products; this Contract is formed when the Company accepts the Order.

'Acceptance' of the order shall be any action that the Company takes to process the Buyer's Order other than a response declining the Order

2. General

These conditions form an integral part of every Contract for the supply of the Products by the Company. These conditions are available on the Company's website at www.adaptems.com/public/docs/AemsTerms.pdf and may be updated from time to time. It is the Buyer's responsibility to ensure that they have the correct issue of this document valid at the time of order placement. The Order shall be deemed to be placed subject to these conditions and no variation of these conditions is applicable unless expressly accepted in writing by the Company. Specifically, the Buyer's conditions shall not override these terms and conditions of sale unless expressly accepted in writing by the Company. Should the Buyer not accept these terms and conditions of sale, the Buyer should inform the Company in writing prior to the commencement of the order. The Company's acknowledgement of the Order shall not constitute such acceptance of variance.

3. Validity

Any quotation is valid for a period of thirty (30) days from the date of quotation unless otherwise stated or unless revoked by the Company and, in any event the Order is subject to written acceptance by the Company.

4. Confidentiality

All information provided in quotations by the company including pricing of goods and services, other than that supplied by the buyer in order to obtain the quotation, is confidential to the Buyer and the Company and is not to be disclosed to any 3rd party without the Company's prior written consent.

5. Payments

Terms of payment are strictly payment with order unless a credit account has been established with the Company. Where a credit account has been established with the Company, payment must be made for each instalment of goods delivered within 30 days of invoice date (whether the goods delivered are the whole or part of the goods ordered).

All orders are divisible. Each delivery made shall be invoiced separately; any invoice for a delivery shall be payable in full in accordance with the terms of payment provided for herein, without reference to and notwithstanding any defect or default in delivery of any other instalment.

Timely payment is of the essence of these terms and conditions. Failure to make timely payment may result in a credit account being withdrawn at any time, resulting in all open orders and future orders reverting to payment with order. We reserve the right at our complete discretion to refuse to establish credit account facilities. Without prejudice to our rights, interest at 8% above the base rate shall be payable on any payment which is overdue until actual payment, under the Late Payment Commercial Debt (Interest) Act. Compensation shall also be applied to the late payment at the appropriate scale charge. Notwithstanding any statement to the contrary by the Buyer, we shall be entitled in our absolute discretion to appropriate any payment received by us from the Buyer to, or towards, any indebtedness of the Buyer with us, whether under this or under any other contract.

In the event of refusal by the Buyer to accept delivery of completed orders other than for agreed non-conformance, the Company shall be entitled to invoice the Buyer for the goods as though they were delivered, the company shall hold the stock on its premises as Customer bonded stock until such time as the Buyer accepts delivery and the Buyer shall be responsible for insurance of the bonded stock and shall be liable for storage charges for the stock.

6. Amendments, Re-Scheduling and Cancellation of Orders, conclusion of Supply Contract

- a. Once accepted by the Company no Order can be amended, re-scheduled or cancelled except with the Company's written approval and upon terms which indemnify the Company against any losses including loss of profit or additional costs resulting there-from. In particular additional costs incurred because of any alterations made at the Buyer's request to quantities, delivery dates, rates, or specifications shall be borne by the Buyer.
- b. Where an order includes an agreed delivery date or dates, these may be re-scheduled only with the Company's specific written agreement, and in any event we will typically require not less than three months prior written notice of any required re-scheduling. Any stockholding costs incurred as a result of any re-scheduling will be payable to us by the Buyer.
- c. In the event of the cancellation of an order by the Buyer the Company reserves the right without prejudice to charge up to 100% for stock held by us pending shipment, up to 100% for items which we cannot cancel delivery from our supplier and up to 50% for the remaining balance. In particular (but without limitation), in the event of cancellation by the Buyer of only part of an order, the Company shall be entitled to recalculate the price for the un-cancelled part of the order as if it constituted the whole order, and to re-invoice the Buyer accordingly.
- d. In the event of the re-scheduling of an order by the Buyer or the failure of the Buyer to accept deliveries according to the scheduled delivery date or dates, the Company reserves the right without prejudice to charge up to 100% for stock held by us pending shipment, up to 100% for items which we cannot cancel delivery from our supplier, up to 100% of labour costs for work undertaken, and up to 50% for the remaining balance.
- e. No returns will be accepted without a Return Material Authorisation (RMA) number issued by the Company, and must be returned at the Buyer's expense in original condition. Unauthorised returns not accepted by the Company may be returned at the Buyer's expense. If we agree to accept a return other than in the event of defective goods, the Buyer will be charged a handling charge of 20% of the invoice value, plus VAT. In the event of non-warranty returns the Buyer will be liable for all repair costs up to the original cost of the Product unless an estimate or repair cost cap is requested in advance and confirmed in writing.
- f. The Company in its sole discretion reserves the right to exceptionally cancel any order without stating a cause and shall provide the Buyer with such notice as is reasonably possible in the circumstance.
- g. At the conclusion of a supply contract, defined as a single contract with more than one delivery or a series of orders for one or more products, the Buyer accepts liability for such residual stock as the Company may hold in execution of the supply contract and accepts that the Company shall invoice the Buyer for the residual stock on completion of the contract.

7. Delivery and Risk

- a. Subject to the following sub-clauses of this clause all risks shall pass to the Buyer upon delivery.
- b. Unless otherwise specified delivery shall be deemed to take place when the Products have been delivered to the Buyer's carrier (whether or not arrangements for carriage have been made by the Company) or, where agreed, to the Buyer's premises or other specified delivery point in the UK or FOB UK port or airport if ultimately for despatch overseas.
- c. All dates and times specified to the Buyer for delivery of the Products are estimates only. Such dates and times commence from the receipt by the Company of the Buyer's Order or from the date of receipt of all necessary Buyer information to enable the Company to initiate manufacture, whichever is the later. The Company will seek to deliver goods ordered by the Buyer within the time requested by the Buyer. However, time for delivery shall not be of the essence and the Company shall not be liable for any losses alleged by the Buyer to have been incurred directly or indirectly as a consequence of any late delivery of goods, or inability to supply the goods ordered within the time requested.
- d. The Buyer shall not be entitled to refuse acceptance of the Products as a consequence of such a delay. The Company may make partial deliveries.
- e. The Company may in its sole discretion withhold delivery pending payment of any sum due from the Buyer to the Company.
- f. The Buyer (in regards to risk) should hold adequate insurance to cover the cost of damage or loss to goods on the premises belonging to the Company (in regards to title).
- g. If the Buyer does not accept delivery of a consignment of Products at the agreed date then:
 - i. The Company shall be entitled to claim payment in accordance with Clause 4 above for the Products refused.
 - ii. The Products refused shall be in all respects at the Buyer's risk.
 - iii. The cost of storing the Products shall be borne by the Buyer.

8. Title

The Buyer shall acquire title to the Products only when payment has been received in full by the Company in accordance with clause 5.

Where tooling is required for the completion of the Contract, even if ordered separately, this will remain the property of Company at all times unless otherwise stated to the contrary in the Contract.

9. Warranty, Returns and Recycling

- a. Should any Product supplied by the Company become defective within twelve (12) months from the date of invoice or dispatch whichever is the earlier, unless otherwise agreed in writing by the Company, the Company undertakes to replace or repair the same free of charge provided that :
 - i. The Buyer undertakes that all products received will be verified by the Buyer and written notice provided to the Company at the earliest opportunity, and no later than 10 working days following delivery if the product does not meet the intended specification, and 24 hours in the event of receipt of goods damaged in transit, and
 - ii. In the event that samples are requested or supplied for approval, such approval provided by the Buyer shall confirm the build standard for the remainder of the Contract, and
 - iii. Warranty of Product functionality is limited to that demonstrated by the level of test/inspection stated in the Contract. Visible defects are covered, non-visible and functional/performance related defects are covered only if these can be shown to fail the agreed level of test/inspection, and
 - iv. The Company is satisfied that the breakage of, or defect in the said part or parts was due to a defect in workmanship or material, and
 - v. The Company is satisfied that each of the said parts has been properly maintained by the Buyer and has not been operated beyond the limits of rated capacity and normal usage, and
 - vi. There is no pattern of defect that indicates a design related failure, (excluding any aspect of the Product that was designed by the Company), and
 - vii. Warranty is limited to assembly defects only for failures related to free-issue part(s) unless the Company can be shown to have damaged the part or parts through negligence prior to shipment, and
 - viii. Warranty is limited to assembly defects only for failures related to part(s) where the Buyer specifies part(s) that are obsolete and/or are only available through grey-market or non-franchised sources to meet required delivery timescales, or where defective free-issue parts can be shown to have damaged other parts in the product, and
 - ix. The Buyer shall be responsible for the return of the Product in the same condition as originally dispatched.
- b. In the event of a successful warranty claim the Company shall be liable for the return shipping cost to the original shipped address
- c. In the event that Product or part thereof is replaced or repaired this shall not enlarge or extend the warranty period for any Product beyond warranty for the original product
- d. In the case of non-warranty Product returns for repair or modification, the Buyer shall notify the Company in writing of any Product(s) to be returned and the reason for the return. The Company will issue an RMA number. If the Customer returns Product without an issued RMA number, the Company may at its sole option refuse to accept such returns, any resulting costs are to be borne by the Customer. The Customer may request an estimate or a capped cost for any work to returned product, if this is not specified then the Customer accepts that where the return is for a repair to original specification that the cost shall be as determined by the Company but shall not exceed the replacement cost of the Product.
- e. Except in the case that the Contract is for the Company to provide product design services, the Company provides assembly services for the Buyer's designs. The Company shall ensure that the material purchased is to the Buyer's specification, the Buyer is responsible for compliance of the Product to, or exemption from, RoHS, REACH, T3G or related legislation or other standards applicable to the design, safety and sale of the product. The Company makes no assessment of conformity of the Customer's specified devices or design.
- f. WEEE legislation responsibility for Product assembled for the Customer is only accepted where this is specifically referred to by the Company as part of the Contract. In all other circumstances WEEE responsibility shall rest with the Customer.

10. Liability

- a. The warranty given in clause 9 above is the only warranty given by the Company and any other claims relating to any expressed or implied warranties or conditions as to the quality and fitness for purpose of the Products are hereby expressly excluded to the extent allowed by law. Unless specifically agreed the Company does not warrant that the Products are suitable for any particular application. Liability relating to death or personal injury due to negligence and liability for fraudulent misrepresentation is excluded, for which the Company holds liability insurance. It is the Buyer's responsibility to affirm where necessary that this insurance is adequate to meet their requirements.
- b. The Company shall not be under any liability for any consequential loss or, loss of revenue or profit, or damage, or injury to the Buyer howsoever arising.
- c. The Company shall not be under any liability for infringement arising from the combination of any Products with items not supplied by the Company.
- d. Subject to sub-clause a. above, in the event of the company being found liable for any loss or damage arising out of the Products it's total liability shall not under any circumstance exceed, for any breach or breaches, the purchase price of the Product.
- e. The Customer shall at all times be liable for any residual material costs, such as may arise from minimum order quantities, which are not consumed as part of the products that the Company supplies to the Customer. The Customer acknowledges that the Company may invoice such excess material at any time, and in particular in the event that production quantities significantly change or at the end of the contract.

11. Lien

In the event of the Buyer's insolvency we shall be entitled (in addition to any lien arising by law) to a general lien on all the Buyer's goods in our possession (although the same or some of them have been paid for) for any money due either in respect of such goods or in respect of any general or particular balance or other money due from the Buyer to us, whether under the same or any other order.

12. Force Majeure

The Company shall not be under any liability to the Buyer for any breach of any provision hereof or failure on its part to perform any obligation as a result of force majeure. In the event of any such delay, delivery shall be appropriately adjusted.

13. Representations

These 'Terms and Conditions of Sale' supersede all previous conditions, understandings, commitments, agreements or representations whatsoever whether written or oral and shall not be varied except with the Company's written consent.

14. Notices

Any notice required to be given hereunder shall be sufficiently given if sent by registered post to the recipient at it's registered office or last known address and shall be deemed to have been properly served at the time when in ordinary course of transmission it would reach the destination.

15. Governing Law

These Conditions and the Contract shall be governed construed and shall take effect in accordance with the laws of England, and shall be subjected to the jurisdiction of the English courts.