

General Terms and Conditions of Purchase for Acantecs Limited (hereafter called “the Customer”)

1. Interpretation
 - 1.1. Definitions:
 - 1.1.1. "Business Day" means a day (other than a Saturday, Sunday, or public holiday) when banks in London are open for business.
 - 1.1.2. "Customer" means Acantecs Limited, a company registered in England and Wales company registration number 14337475 with registered offices at 137 Laughton Road, Dinnington, Sheffield, South Yorkshire, S25 2PP.
 - 1.1.3. "Commencement Date" Has the meaning set out in clause 2.3
 - 1.1.4. "Customer Policies" means but not limited to End User Statements, Conflict Material Policies and Anti-Slavery Policies as amended from time to time.
 - 1.1.5. "Conditions" means the terms and conditions set out in this document as amended from time to time in accordance with *clause 19.4*.
 - 1.1.6. "Contract" means the contract between the Customer and the Supplier for the sale and purchase of the Goods and/or Services in accordance with these Conditions and the Order.
 - 1.1.7. "Delivery Date" means the date specified in the Contract (as per the Incoterms specified in the Order), or, if none is specified, within 5 business days of the date of the Order.
 - 1.1.8. "Deliverables" all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
 - 1.1.9. "Delivery Location" means the address for delivery of Goods and/or Services as set out in the Order.
 - 1.1.10. "Goods" means the goods (or any part of them) set out in the Order.
 - 1.1.11. "Intellectual Property Rights" patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
 - 1.1.12. "Specifications" means any specification for the Goods and/or Services, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.
 - 1.1.13. "Supplier" means the person or firm from whom the Customer purchases the Goods and/or Services.
 - 1.1.14. "Services" means the services (or any part of them) set out in the Order
 - 1.1.15. "Order" the Customers' order for the supply of Goods and/or Services, as set out in the Customer's purchase order form.
 - 1.2. Interpretation:
 - 1.2.1. a reference to a statute or statutory provision is a reference to such statute or provision
 - 1.2.2. any phrase introduced by the terms including, include, in particular, or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
 - 1.2.3. a reference to writing or written includes faxes and emails.
2. Basis of contract
 - 2.1. These Conditions apply to the Order to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
 - 2.2. The Order constitutes an offer by the Customer to purchase the Goods and/or Services in accordance with these Conditions.
 - 2.3. The Order shall be deemed to be accepted on the earliest of:
 - 2.3.1. the Supplier issuing a written acceptance of the Order; and
 - 2.3.2. the Supplier doing any act consistent with fulfilling the Order, at which point the Contract shall come into existence ("Commencement Date")
- 2.4. The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with, or contained in any Supplier documents that are inconsistent with these Conditions.
- 2.5. All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.
3. Goods
 - 3.1. The Supplier shall ensure that the Goods shall:
 - 3.1.1. correspond with their description and any applicable specification as stipulated in the Order;
 - 3.1.2. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979 or the, as amended or) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer expressly or by implication, and in this respect, the Customer relies on the Customer's skill and judgment; and
 - 3.1.3. comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
 - 3.2. The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.
 - 3.3. The Customer may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Customer's obligations under the Contract.
 - 3.4. If following such inspection or testing the Customer considers that the Goods do not conform or are unlikely to comply with the Customer's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance and the Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.
4. Delivery
 - 4.1. All Goods shall be delivered on the delivery date as specified on the order to the place or destination set forth on the Order (the "Delivery Location") during the Customer's normal business hours, or as instructed by the Customer.
 - 4.2. The Supplier must at his own expense and risk, transport the Goods to the Delivery Location and there tender delivery of the goods.
 - 4.3. Supplier shall on request supply the Customer all necessary declarations and documents stating the origin of the Goods.
 - 4.4. The supplier shall ensure that:
 - 4.4.1. the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
 - 4.4.2. each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered: and
 - 4.5. Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location on the Delivery Date.
 - 4.6. If the Supplier:
 - 4.6.1. delivers less than 95% of the quantity of Goods ordered, the Customer may reject the Goods; or
 - 4.6.2. delivers more than 105% of the quantity of Goods ordered, the Customer shall be entitled to renegotiate a new price for the excess quantity of Goods that were delivered OR at its discretion the Customer may reject the Goods or the excess Goods and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.
 - 4.7. The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all, or any defect in an instalment shall entitle the Customer to the remedies set out in *clause 6*.
 - 4.8. Title and risk in the Goods shall pass to the Customer on completion of delivery

5. Supply of services
 - 5.1. The Supplier shall from the date set out in the Order and for the duration of the Contract supply the Services to the Customer in accordance with the terms of the Contract.
 - 5.2. The Supplier shall meet any performance dates for the Services specified in the Order.
 - 5.3. In providing the Services, the Supplier shall:
 - 5.3.1. co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
 - 5.3.2. perform the Services with the best care, skill and diligence in accordance with best practice in the Customer's industry, profession or trade;
 - 5.3.3. use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Customer's obligations are fulfilled in accordance with the Contract;
 - 5.3.4. ensure that the Goods and/or Services will conform with all descriptions and specifications set out in the Order, and that the Services shall be fit for any purpose that the Customer expressly or impliedly makes known to the Customer.
 - 5.3.5. provide all equipment, tools and vehicles and such other items as are required to provide the Services;
 - 5.3.6. use the best quality goods, materials, standards and techniques, and ensure that, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
 - 5.3.7. obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
 - 5.3.8. comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes that may apply to the provision of the Services;
 - 5.3.9. observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;
 - 5.3.10. hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (Customer Materials) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
 - 5.3.11. not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services;
6. Quality and Remedies
 - 6.1. The Supplier's representation of the quality of all Goods and/or Services shall be an essential condition of the contract, and any noncompliance therewith shall give Customer the right to reject any of the Goods and/or Services and to repudiate the contract
 - 6.2. If the Goods and/or Services are not delivered on the Delivery Date, or do not comply with the undertakings set out in clause 3.1 and 5.3.4., then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods and/or Services, the Customer may exercise any one or more of the following remedies:
 - 6.2.1. to terminate the Contract;
 - 6.2.2. to reject the Goods and/or Service (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
 - 6.2.3. to require the Supplier to repair, replace and/or rectify the rejected Goods and/or Service, or to provide a full refund of the price of the rejected Goods and/or (if paid);
 - 6.2.4. to refuse to accept any subsequent delivery of the Goods and/or Services which the Supplier attempts to make;
 - 6.2.5. to recover from the Supplier any costs incurred by the Customer in obtaining substitute Goods and/or Services from a third party; and
 - 6.2.6. to claim damages for any other costs, loss or expenses incurred by the Customer which are in any way attributable to the Customer's failure to carry out its obligations under the Contract.
 - 6.3. These Conditions shall apply to any repaired or replacement Goods and/or Services supplied by the Customer.
 - 6.4. The Customer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.
7. Inspection and Testing of Goods
 - 7.1. The Customer's inspector or representative and any inspector or representative of the Customer or the agent of any of them or of any governmental department concerned, may, on the Customer's authority, inspect or test the Goods and/or Services at any reasonable time at the Supplier's facilities or at the facilities of any permitted subcontractor or assignee. For this purpose, the Supplier will give to the Customer or any nominee of the Customer, or otherwise arrange for, reasonable access to the Customer's facilities or any such other facilities where the Goods and/or Services can be inspected and/ or tested.
 - 7.2. If specified by the Customer, the Supplier will give adequate notice of any testing of Goods and/or Services which the Customer is entitled to attend and shall provide the Customer with such test certificates as the Customer may reasonably require.
 - 7.3. Such inspection prior to delivery does not relieve the Supplier of any liability nor does the inspection prior to delivery imply acceptance of the Goods and/or Services in the event that Customer discovers upon delivery that any of the Goods and/or Services set forth in the Contract are defective or non compliant in any way to the Contract.
 - 7.4. The Customer reserves the right, at its option, either to reject any Goods and/or Services in whole or in part (whether or not the same have been delivered to and accepted by the Customer) or to cancel the Contract or any part of the Contract or to delay acceptance of the whole or any part of the Contract without any further payment or charge for storage or delay in any of the following circumstances:
 - 7.4.1. failure of the Supplier to strictly comply with the description, specification and drawings relating to the Goods to be supplied or Services to be carried out and/or failure to comply with any governmental standard, statute or regulation specification where applicable.
 - 7.4.2. If the Goods and/or Services are below the specified standard or fail to pass any inspection or test in accordance with these Conditions; or
 - 7.4.3. If the Supplier otherwise fails to comply in all respects with any of its obligations under these Conditions.
8. Title and Risk
 - 8.1. Title to the Goods shall pass to the Customer on delivery to the place specified in the Order or as otherwise agreed without prejudice to any right of rejection or other right which may accrue or have accrued to the Customer under these Conditions or otherwise.
 - 8.2. All Goods rejected or returned for any reason shall be at the risk of Supplier during return transit to Customer.
9. Price and Payment
 - 9.1. The price of the Goods and/or Service shall be the price set out in the Contract, or, if no price is quoted, the price set out in the Customer's agreed price list in force as at the date the Contract came into existence.
 - 9.2. The price of the Goods and/or Service:
 - 9.2.1. excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
 - 9.2.2. excludes the costs of packaging, insurance and carriage of the Goods unless it was pre agreed in the Contract.
 - 9.3. No extra charges shall be effective unless agreed in writing with the Customer.
 - 9.4. The Supplier may invoice the Customer for price of the Goods and/or Services plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery. The Supplier shall ensure that the invoice includes the date of the Order, the invoice number, the Customer's order number, the Customer's VAT registration number and any supporting documents that the Customer may reasonably require.
 - 9.5. The Customer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Customer against any liability of the Customer to the Customer.
10. Indemnity
 - 10.1. The Supplier shall keep the Customer indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Customer as a result of or in connection with the supply of the Goods and/or Services.
 - 10.1.1. any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding the Customer Materials);
 - 10.1.2. any claim made against the Customer by a third party for death, personal injury or damage to property

- arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and
- 10.1.3. any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.
- 10.2. This clause 10 shall survive termination of the Contract.
11. Intellectual Property Rights
- 11.1. All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.
- 11.2. The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence OR licence during the term of the Contract] to copy and modify the Deliverables (excluding materials provided by the Customer) for the purpose of receiving and using the Services and the Deliverables in its business.
- 11.3. The Customer shall not sub-license, assign or otherwise transfer the rights granted in Clause 11.2.
- 11.4. The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy [and modify] any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer
12. Insurance
- 12.1. During the term of the Contract and for a period of 6 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Order, and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
13. Confidentiality
- 13.1. A party ("receiving party") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party ("disclosing party"), its employees, agents or subcontractors and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- 13.2. This clause 13 shall survive termination of the contract.
14. Compliance with Relevant Laws, Policies and Licences
- 14.1. In performing its obligations under the Contract the Supplier shall comply with all applicable (but not limited to) laws, statutes, regulations, codes and Customer Policies as required and amended from time to time and in force.
- 14.2. The Customer may immediately terminate the Contract for any breach of clause 14.
- 14.3. In the event the performance of the Contract requires Customer to have a permit or license from any governmental authority wherever located, whether domestic or abroad, the Contract shall be conditional upon such permit or license being available and obtained by Customer at the required time.
15. Termination
- 15.1. The Customer may terminate the Contract in whole or in part at any time before delivery with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods and/or Services at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.
- 15.2. Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- 15.2.1. the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
- 15.2.2. the Supplier 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),
- 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 or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 15.2.3. the Supplier takes any step or action in connection with the Supplier being made bankrupt, entering any composition or arrangement with his creditors, having a receiver appointed to any of his assets, or ceasing to carry on business or if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 15.2.4. the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 15.2.5. the Supplier's financial position deteriorates to such an extent that in the Customer's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 15.3. Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.
- 15.4. Clauses that expressly or by implication survive termination of the Contract shall continue in full force and effect.
16. Consequences of Termination
- 16.1. On termination of the Contract, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
17. Force Majeure
- 17.1. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure results from an event, circumstance or cause beyond its reasonable control. If the period of delay or non-performance by the Supplier continues for 1 month, the Customer may terminate the Contract by giving 30 days written notice to the Supplier.
18. General
- 18.1. Assignment and other dealings
- 18.1.1. The Customer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract.
- 18.1.2. The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Customer.
- 18.2. Subcontracting. The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.
- 18.3. Entire agreement. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 18.4. Variation. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Customer.
- 18.5. Waiver. Except as set out in clause 2.4, no failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 18.6. No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 18.7. Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

- 18.8. Notices
- 18.8.1. Any notice given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or email.
- 18.8.2. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 18.8.1; 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.
- 18.8.3. This clause does not apply to the service of any proceedings or other documents in any legal action, or other method of dispute resolution.
- 18.9. Third party rights. No one other than a party to the Contract and their permitted assignees shall have any right to enforce any of its terms.
- 18.10. Arbitration
- 18.10.1. Any dispute arising out of or in connection with this contract (including any questions as to its existence, validity and termination) must be referred to any finally resolved by arbitration under the arbitration rules of the Minor Metals Trade Association which rules are deemed to be incorporated by reference into this clause 18.
- 18.10.2. Notwithstanding any other provision of this clause 18, any party may apply to the arbitral tribunal or any court in England and Wales for the purpose of seeking injunctive relief or to enforce an award or decision of the arbitral tribunal.
- 18.11. Governing law. Each 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.
- 18.12. 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.