

General Terms and Conditions of Sale for Acantecs Limited (hereafter called “the Supplier”)

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. "Conditions" means the terms and conditions set out in this document as amended from time to time in accordance with clause 15.4.
 - 1.1.3. "Contract" means the document between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions
 - 1.1.4. "Customer" means the person or firm who purchases the Goods from the Supplier.
 - 1.1.5. "Force Majeure Event" means an event or circumstance beyond a party's reasonable control.
 - 1.1.6. "Goods" means the goods (or any part of them) set out in the Order.
 - 1.1.7. "Order" means the Customer's order for the Goods, as set out in the Customer's purchase order form.
 - 1.1.8. "Incoterms" means the international terms of trade for the sale of goods as amended from time to time.
 - 1.1.9. "Services" means the services set out in the Order.
 - 1.1.10. "Specification" means any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.
 - 1.1.11. "Supplier" 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.
 - 1.2. Interpretation:
 - 1.2.1. a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
 - 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.
 - 1.2.3. a reference to writing or written includes faxes and emails.
2. Basis of contract
 - 2.1. These Conditions apply to the Contract to the exclusion of any other terms that the Customer 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. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Customer are complete and accurate.
 - 2.3. The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence (Commencement Date).
 - 2.4. The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
 - 2.5. Any samples, drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
 - 2.6. A quotation for the Goods and/or Services given by the Supplier shall not constitute an offer, and a quotation shall only be valid for a period of 20 Business Days from its date of issue.
 - 2.7. All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.
- 2.8. Acceptance of delivery of Goods will be deemed conclusive evidence of the Customer's acceptance of these Conditions.
3. Goods
 - 3.1. The Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Specification. This clause 3.1 shall survive termination of the Contract.
 - 3.2. The Supplier reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.
4. Delivery
 - 4.1. The Supplier shall ensure that:
 - 4.1.1. each delivery of the Goods is accompanied by a delivery note that shows the date of the Delivery, all relevant Customer and Supplier reference numbers, 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
 - 4.2. Delivery is completed as per the agreed Incoterms as specified in the Order ("Completion of Delivery")
 - 4.3. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence.
 - 4.4. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event, or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
 - 4.5. If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.
5. Quality
 - 5.1. The Supplier warrants that, the Goods shall:
 - 5.1.1. conform in all material respects with their specification in the Order;
 - 5.1.2. be free from material defects in design, material and workmanship;
 - 5.1.3. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
 - 5.1.4. be fit for any purpose held out by the Supplier.
 - 5.2. Subject to clause 5.3, if:
 - 5.2.1. the Customer gives notice in writing (within 3 days of Delivery) to the Supplier that if some or all of the Goods do not comply with the Order as set out in clause 5.1; or
 - 5.2.2. the Supplier is given a reasonable opportunity of examining such Goods; and
 - 5.2.3. the Supplier shall, at its option, replace or exchange the defective Goods, or refund the price of the defective Goods in full.
 - 5.3. The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 in any of the following events;
 - 5.3.1. the Customer makes any further use of such Goods after giving notice in accordance with clause 5.2;
 - 5.3.2. the Customer does not comply with the notice period in accordance with clause 5.2;
 - 5.3.3. the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
 - 5.3.4. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - 5.3.5. the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
 - 5.4. Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
 - 5.5. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
 - 5.6. These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

6. Title and Risk
- 6.1. The risk in the Goods shall pass to the Customer in accordance with the agreed Incoterms as specified in the Order.
- 6.2. Title to the Goods shall not pass to the Customer until the earlier of:
- 6.2.1. the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and
- 6.2.2. the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 6.4.
- 6.3. Until title to the Goods has passed to the Customer, the Customer shall:
- 6.3.1. store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- 6.3.2. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 6.3.3. maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- 6.3.4. notify the Supplier immediately if it becomes subject to any of the events listed in
- 6.3.5. give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- 6.4. Subject to clause 6.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:
- 6.4.1. it does so as principal and not as the Supplier's agent; and
- 6.4.2. title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 6.5. If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 11.1, then, without limiting any other right or remedy the Supplier may have:
- 6.5.1. the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
- 6.5.2. the Supplier may at any time:
- 6.5.2.1. require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
- 6.5.2.2. if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
7. Supply of Services
- 7.1. The Supplier shall supply the Services to the Customer in accordance with the Specification in all material respects.
- 7.2. The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 7.3. The Supplier reserves the right to amend the Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 7.4. The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.
8. Customer's Obligations
- 8.1. The Customer shall:
- 8.2. ensure that the terms of the Order and any information it provides in the Service Specification and the Goods Specification are complete and accurate;
- 8.3. co-operate with the Supplier in all matters relating to the Services;
- 8.4. provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- 8.5. prepare the Customer's premises for the supply of the Services;
- 8.6. obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- 8.7. comply with all applicable laws, including health and safety laws;
- 8.8. keep all materials, equipment, documents and other property of the Supplier (Supplier Materials) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation; and
- 8.9. comply with any additional obligations as set out in the Service Specification and the Goods Specification; and
- 8.10. If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):
- 8.11. without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- 8.12. the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 8; and
- 8.13. the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.
9. Price and Payment
- 9.1. The price of the Goods and Services shall be the price set out in the Order.
- 9.2. The Supplier may, by giving notice to the Customer at any time 30 Business Days before delivery, increase the price of the Goods or Services to reflect any increase in the cost that is due to:
- 9.2.1. any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- 9.2.2. any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
- 9.2.3. any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 9.3. The price of the Goods and Services:
- 9.3.1. 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
- 9.3.2. excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.
- 9.4. The Supplier may invoice the Customer for the Goods or Services on or at any time after the completion of the Service or completion of delivery of the Goods.
- 9.5. The Customer shall pay invoices in full and in cleared funds within 30 Days of the date of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier. Time for payment is of the essence.
- 9.6. If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 5% per annum above Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 9.7. The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). If the Customer fails to pay all amounts to the Supplier, the Supplier may at any time, without limiting any other rights or remedies it may have, halt, suspend or discontinue any other delivery of Goods on any Contract held between the Customer and the Supplier. In this instance, all Contracts between the Customer and the Supplier shall become immediately due and payable to the Supplier.
- 9.8. The Supplier may at any time, without limiting any other rights or remedies it may have set-off any amount owing to the Supplier by the Customer against any amount payable by the Supplier to the Customer.
- 9.9. The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
10. Intellectual Property Rights
- 10.1. 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.
- 10.2. 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.

- 10.3. The Customer shall not sub-license, assign or otherwise transfer the rights granted in clause 10.2. this Contract by giving 30 days written notice to the affected party.
- 10.4. 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.
11. Termination
- 11.1. Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:
- 11.1.1. the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;
- 11.1.2. the Customer 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;
- 11.1.3. the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- 11.1.4. the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 11.2. Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 11.1 to clause 11.1.4, or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 11.3. Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 11.4. On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest.
- 11.5. Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as of termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.
- 11.6. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.
12. Limitation of Liability
- 12.1. Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- 12.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- 12.1.2. fraud or fraudulent misrepresentation;
- 12.1.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- 12.1.4. defective products under the Consumer Protection Act 1987; or
- 12.1.5. any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.
- 12.2. Subject to clause 12.1:
- 12.2.1. the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- 12.2.2. the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed of the price of the Goods.
13. Force Majeure
- Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for 4 weeks, the party not affected may terminate
14. General
- 14.1. Assignment and other dealings
- 14.1.1. The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 14.1.2. The Customer 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 Supplier.
- 14.2. Confidentiality
- 14.2.1. Each party undertakes that it shall not at any time during this agreement, and for a period of two years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, Customers, clients or Suppliers of the other party. Each party may disclose the other party's confidential information:
- 14.2.1.1. to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 14.2; and
- 14.2.1.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 14.2.2. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.
- 14.3. Entire Agreement
- 14.3.1. This 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.
- 14.3.2. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- 14.4. Variation. No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 14.5. Waiver. 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.
- 14.6. 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.
- 14.7. Notices
- 14.7.1. Any notice or other communication 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, sent by pre-paid first class post or other next working day delivery service, commercial courier, or fax or email.
- 14.7.2. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 14.7.1; 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.
- 14.7.3. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

- 14.8. Third party rights No one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.
- 14.9. Arbitration
 - 14.9.1. 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 14.9.
 - 14.9.2. Notwithstanding any other provision of this clause 14.9, 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.
- 14.10. Governing law The 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.
- 14.11. 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 this Contract or its subject matter or formation.