

Conditions of Sale – Altima Limited

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1.
a 'the Seller' means Altima Limited
b 'the Buyer' means the person, company or firm by whom the Goods are purchased
c 'the Goods' means the goods the subject of the contract or contracts to which these Conditions apply ('Great Britain' means England, Scotland and Wales)
d Unless otherwise expressly agreed in writing by the Seller -
1 every sale by the Seller shall in every case be subject to these Conditions to the exclusion of any other terms whether contained in any earlier set of conditions issued by the Seller or the Seller's agents or in a form of order or any other document issued by the Buyer or the Buyer's Agents or otherwise arising whether expressly or by implication
2 any additions, accessories or ancillary products which it may be agreed shall be supplied in connection with the Goods or for use therewith, and any other Goods whatsoever which the Seller may supply to the Buyer in future shall be supplied on the terms contained in these Conditions
c No representative or agent of the Seller has authority to contract with the Buyer for the sale of the Goods or to amend vary or waive these Conditions to make any binding representation or warranty in respect of the Goods
d The Seller's quotations do not constitute an offer. Orders placed with the Seller shall not be binding on the Seller or deemed accepted by it unless and until a written acceptance of such order is issued to the Buyer by the Seller
e Unless previously withdrawn quotations are open for acceptance for the period stated thereon or where no period is so stated within (30) days of the date thereof if the Buyer is in Great Britain or within (60) days of the date thereof if the Buyer is outside Great Britain
f The Buyer and the Seller shall be liable and entitled under this contract as principals save that the Seller shall have the option of enforcing this contract against any principal of the Buyer

2.
Except as otherwise agreed in these Conditions, all drawings, descriptive matter, samples, weights, dimensions, specifications, capacities, brochures, catalogues, price lists and advertising matter are published or issued for the sole purpose of giving an approximate idea of the goods described therein and no information contained in any of them or in any other document whatever shall form part of the contractual description of the Goods, nor shall they form part of any contract. The Seller reserves the right to make without notice such reasonable modifications in specifications, descriptions, designs, materials or finishes as is deemed necessary or desirable. The Buyer shall not be entitled to object to or reject the Goods or any of them by reason of such reasonable modifications

3
a To the best belief of the Seller all Goods comply in all respects with the requirements of the Health and Safety at Work Act 1974 ("the Act") Subject as hereinafter provided if a competent authority under the Act declares that the Goods are unsafe or a risk to health in any respect. The Buyer shall notify the Seller immediately and the Seller shall at the Buyer's expense make such modifications to the Goods or supply such additional or replacement parts for the Goods as such authority shall consider necessary to ensure that the Goods comply with the requirements of the Act

b The Buyer shall ensure that the Goods will be safe and without risk to health when properly used and in particular (without prejudice to the foregoing) the Buyer shall ensure that the Goods are used in accordance with any instruction manual which the Seller may supply. If the Buyer fails to comply with the foregoing provisions of this clause then

1 The Seller shall be relieved of its liability (if any) to the Buyer under the Act or under sub-paragraph (a) of this Condition or otherwise howsoever to the extent that such liability would not have arisen but for such failure and
2 The Buyer shall indemnify the Seller against all claims by third parties and all penalties for which the Seller may be liable pursuant to the Act or otherwise howsoever to the extent that such liability would not have arisen but for such failure

4
a Goods will be delivered to any part of Great Britain
1 free of charge for orders totalling over £200.00
2 orders less than £200.00 will be subject to a handling/carriage charge of £20.00
b Goods will be delivered outside Great Britain on an ex Works basis
c Unless otherwise agreed by the Seller in writing delivery of the Goods shall take place at the Seller's premises

1 Unless otherwise agreed in writing the Buyer shall be responsible for the off loading and the taking of delivery of the Goods at the agreed place including any costs incidental thereto

2 The Seller shall not be liable in respect of any damage in transit or non delivery of Goods howsoever caused (including negligence) unless notice in writing is given to the carrier and to the Seller within the period specified in the contract of carriage or within (three) working days of the date when the Goods were received or would in the ordinary course of events have been received whichever is the earlier

3 The Buyer will at its own cost -
(a) supply all machinery equipment and labour
(b) make all other preparations as shall be necessary for the off loading of the Goods

e Times or dates quoted by the Seller for completion or delivery are intended as an approximate estimate only. Every endeavour will be made to adhere to such times or date but the Seller does not give any other undertaking in that regard
f If for any reason the Buyer fails to accept delivery of the Goods within (seven) days of the date of service on the Buyer by the Seller of a written notice stating that the Goods are due and ready for delivery the Buyer shall remain liable to pay the price for the Goods at the times specified in these Conditions and without prejudice to any other right conferred upon it in that event by these terms or by law the Seller shall be entitled to store the goods at the Buyer's risk and the Buyer shall be liable to the Seller for the reasonable cost of doing so

g After the expiration of (seven) days from the date of service of a notice pursuant to sub paragraph (f) of this Condition the Buyer shall be responsible for all loss or damage to the goods howsoever arising (including loss or damage caused by the negligence of the Seller)

h When the Buyer must do something so as to enable the Seller to manufacture, finish and/or deliver the Goods such act must be done by the date stipulated by the Seller or (if no date is so stipulated) must be done in such time as will enable the Seller to meet the estimated time stated for completion or delivery of the goods. The acts referred to include (but are not limited to)

1 the provision of all necessary drawings or information
2 the provisions of letters of credit and/or any other necessary payment documents

3 the obtaining of any necessary licence or permission (including import and export licences) for delivery
4 to provision of shipping space

The Seller will not be liable for any delays in delivery caused by any failure or delay on the part of the Buyer in performing such acts

1 if the Seller delivers to the Buyer a quantity of Goods not more than 10% more or less than the quantity stated on the Seller's acceptance of order the Buyer shall not be entitled to object to or reject the goods or any of them by reason of such surplus or shortfall and shall pay for the goods pro rata at the contract rate

5
a The Seller shall be released from his obligations hereunder to the extent that the performance of those obligations is delayed, hindered or prevented by any circumstances beyond the Seller's control including, without prejudice to the generality of the foregoing, strikes, lock-outs or other industrial action, or the reasonable apprehension thereof civil disturbances, war, Queen's enemies, Act of God, fire explosion, storm flood, tempest, seizure, arrest or requisition of the Goods or any materials, failure of any of the Seller's usual sources of supply of goods or materials government regulations requirements, quotas or licence restrictions shortage of or delay in obtaining fuel or power

b If there shall be any shortage of goods from any of the Seller's regular sources of supply and the Seller shall be unable to meet from those sources the demands of all its customers (including parent subsidiary and associated companies) the Seller may allocate the available supplies among such customers in such manner as it shall in its absolute discretion consider to be fair
c If the Seller shall pursuant to sub clause (a) and/or (b) above tender to the Buyer less than the contractual quantity of Goods or shall tender any Goods late, the Buyer shall accept and pay for the Goods so tendered
d If performance of the contract shall be wholly or partially suspended pursuant to sub-paragraph (a) and/or (b) of this Condition for any continuous period exceeding (180) days either party may cancel the contract by notice in writing to the other without prejudice to any rights which have accrued before such cancellation

e If delivery shall be delayed or shall be wholly or partially suspended by reason of any breach of contract or of these conditions by the Buyer or by any of the circumstances mentioned in sub paragraph (a) and/or (b) of this Condition the Seller may (without prejudice to any other right conferred upon it in any such event by this contract or by law) require the Buyer to procure any further or additional document or licence or to procure to be amended any document or licence (including any letter of credit or other payment document) to such extent as may be necessary to enable the Seller to deliver the Goods and to obtain payment therefor under such letter of credit or payment document and the Buyer shall comply with such requirement at the cost of the Buyer

6
a Unless otherwise agreed in writing by the Seller all prices quoted are net ex works and are exclusive of Value Added Tax (VAT) customs duties and import levies or any similar duties or levies and any charges for carriage
b Unless otherwise agreed by the Seller in writing all payments shall be made in pounds sterling
c Unless otherwise agreed by the Seller in writing the price for the Goods shall be payable by the Buyer within 30 days of the date of delivery within Great Britain or within 30 days of the date of shipment if delivery is made outside Great Britain

d Prices of Goods quoted by the Seller in its acceptances of orders are based on costs prevailing at the time of acceptance and if at any time between the date of acceptance and if at any time between the date of acceptance of order by the Seller and delivery any rise occurs in costs, the contract price shall be increased by such an amount as fairly represent the increase in cost to the Seller (Variation in costs formula/Index/Arbitration) Such increase or increases shall be payable by the Buyer in addition to the quoted price on the due date for payment or within 30 days of the actual date of delivery whichever is the later. Where the price is payable in instalments, the increase will be payable with the next instalment due after notification of such increase

e Unless otherwise agreed by the Seller in writing an extra charge will be made by the Seller in respect of the packing of the Goods to be supplied

f Prices of spare parts an all other ancillary items shall be those ruling at the date of delivery irrespective of any prices quoted by the Seller prior to delivery

7
a Subject to sub-clause (b) hereof the Company will at its own cost and expense repair and/or replace at its discretion the whole or any part of the Goods which are defective in quality or fail to comply with any specification set out in writing subject however to the following conditions

1 In the event of any matter giving rise to complaint which would be apparent to the Buyer on reasonable inspection the Buyer must give notice thereof to the Company within (three) working days of the receipt of the Goods by the Buyer
2 In respect of a complaint in respect of a matter not apparent on reasonable inspection the Buyer must give notice thereof to the Company within (seven) working days of the defect complained of coming to the attention of the Buyer and/or its employees or agents but in any event notice of complaint must be given to the Company by the Buyer within (six) months of receipt of the Goods by the Buyer

3 In all cases the Company must be given a reasonable opportunity following notice of complaint of examining the relevant Goods
4 The Seller is satisfied that the defect in the Goods was due to its defective workmanship or use of defective materials and without prejudice to the foregoing the Seller shall be under no liability for defects due to wear and tear neglect e or use of the Goods for any purposes other than those for which they are designed

5 The defective Goods are upon the request of the Seller immediately returned carriage paid to the seller's premises
6 The defective Goods have not been sold let hired or otherwise disposed of by the Buyer to a second or subsequent user or purchaser
7 The Seller shall not be liable for the cost or removing defective Goods or the cost of fitting replacements or unless otherwise agreed of re delivery to the Buyer and the Goods shall remain at the risk of the Buyer at all times
8 The defective Goods have not been altered or repaired by any person other than the Seller its employees or agents

b Where Goods or any part thereof are not manufactured by the Seller then the Seller shall in the event of the same being defective by reason of defective workmanship design or materials assign to the Buyer if the Buyer so requests such rights (if any) in respect of such defects as the Seller has against the person firm or company who supplied such Goods or part to the Seller. Such assignment shall be in full settlement of any claims the Buyer may have against the Seller in respect of or arising as a consequence of such defects

c The Seller's liability is limited to repair or replacement of the Goods and liability for every form of consequential damage or loss except only death or personal injury is hereby expressly excluded. Save as expressly provided to the contrary in these Conditions every term condition or warranty whatsoever relating to the quality description or fitness of the Goods implied by law or otherwise howsoever is expressly excluded

8
a In addition to any other right or lien to which the Seller may by law or the other terms hereof be entitled the Seller shall be entitled to a general lien on all the goods and property of the Buyer in the Seller's possession whether paid for or not and right of sale of such Goods and property at the Seller's sole discretion for any unpaid money due under the terms of any contract between the Seller or any Associated Company of the Seller and the Buyer or any Associated Company of the Buyer

b For the purposes of this clause a company is to be treated as another's Associated Company if one of the two has control of the other (whether directly or indirectly) or both are under the control of the same person or persons (whether directly or indirectly) and for the purposes of this definition the expression control shall have the meaning attributed thereto by Section 302 of the Income and Corporation Taxes Act 1970

9
a Time for payment shall be of the essence
b Interest shall be charged by the Seller at 5% over the then current Bank of England Minimum Lending Rate on all sums overdue for payment as well before as after judgement
c The Buyer shall pay the price of the Goods (including any increased price pursuant to Clause 6 hereof) without any deduction whether by way of set off counterclaim or otherwise howsoever

10
a In the event of
1 any distress execution or other legal process being levied upon any of the Buyer's assets

2 the Buyer entering into any arrangement composition with its creditors committing any act of bankruptcy or (being a corporation) an order being made or an effective resolution being passed for its winding up except for the purposes of amalgamation or reconstruction or a Receiver being appointed in respect of the whole or any part of its undertaking or assets

3 non payment by the Buyer of any monies due from it to the Seller
The Seller shall be entitled to suspend all or any future deliveries and instalments under this or any other contract and on written notice to cancel the undelivered portion of this or any contract between the Buyer and the Seller
b In the event of any such cancellation by the Seller in accordance with sub-paragraph (a) above or any cancellation and/or repudiation of the contract by

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the Buyer the Seller shall be entitled to recover as damages from the Buyer the following

1 the value of any work completed or Goods manufactured at the date of termination

2 the value of any work begun or Goods begun to be manufactured but not completed at the date of termination including the cost of materials labour and overheads in connection therewith

3 a sum representing any further profit which the Seller would have made on the contract but for its termination such profit to be determined by the Seller's Auditors whose decision shall be conclusive and binding on the Buyer

c The rights conferred by this Condition shall be without prejudice to any other right enjoyed by the Seller pursuant to these Conditions or by law, including in particular the right to recover the Goods or the proceeds thereof from the Buyer pursuant to Clause 11 hereof

11
a Property in the Goods shall pass to the Buyer upon whichever is the last of the following events namely payment in full of the price of the Goods and payment in full of every sum which is due from the Buyer to the Seller whether under this contract or otherwise howsoever

b Until the happening of the last such event the Buyer shall keep the Goods as bailee and shall in so far as may be possible store them in such a way that they are identifiable as the property of the Seller and separate from all other goods in the Buyer's possession

c At any time before the happening of the last event mentioned in (a) above the Seller may by notice in writing to the Buyer determine the Buyer's right to sell the Goods and the Buyer shall thereupon return the Goods to the Seller and shall cease to be in possession of the Goods with the consent of the Seller and at any time after the giving of such notice the Seller may enter upon any premises where the Goods are or are reasonably believed to be and may remove them
d The Buyer shall be entitled to use or sell the Goods in the normal course of the Buyer's business before the happening of the last event mentioned in (a) above but only upon the following conditions

1 if the Goods are prior to sale by the Buyer made up or incorporated in or mixed with other goods then if they remain separately identifiable the Seller shall retain title thereto and if they do not remain separately identifiable the Seller shall become a joint owner of the goods in or with which the Goods are incorporated or mixed in such proportion as the value of the Goods bears to the value of the goods in which the Goods are so incorporated or mixed

2 If the Buyer sells the Goods or goods in or with which the Goods have been so incorporate or mixed the sale shall be on behalf of the Seller as owner or joint owner thereof as the case may be and the proceeds of any such sale (or the Seller's share thereof if the sale is jointly owned property) shall be held in trust for the Seller and in a separate identified account

e Notwithstanding the foregoing the Goods are at the entire risk of the Buyer from the time of delivery
f Nothing in this Condition shall in any way limit or modify the Buyer's obligation to pay for the Goods in accordance with these Conditions

12
Where more than one item of Goods are included in any order the Seller shall be entitled to make delivery by instalments in such cases the delivery date shown on the Seller's acceptance of order shall be deemed to be the estimated delivery date of the first instalment and each remaining instalment will be delivered within a reasonable time of the preceding instalment. The contract shall be construed as a separate contract in respect of each instalment Nevertheless failure to accept delivery of and/or pay for any instalment shall entitle the Seller to treat the contract as repudiated or alternatively to store the Goods at the Buyer's risk and the Buyer shall be liable to the Seller for the reasonable costs of doing so

13
a The Buyer shall not use the Goods for the purpose of designing or manufacturing identical goods without the Seller's prior written consent. All patent registered design copyright and other industrial property rights in or in connection with the Goods which the Seller may have shall remain the property of the Seller
b The Buyer shall indemnify the Seller against all damages penalties costs and expenses to which the Seller may become liable as a result of work done in accordance with the Buyer's instructions which involves the infringement of any letters, patent trade marks copyright registered design

14 The Buyer shall indemnify the Seller against all costs, claims, demands, proceedings charges and expenses for which the Seller may become liable in respect of the Goods except to the extent that liability is specifically assumed by the Seller under these Conditions
15 Any failure by the Seller to exercise any rights under these Conditions shall not constitute a waiver or prevent the subsequent exercise of such rights
16 Any notice required to be given or served hereunder shall be addressed in the case of a notice to be given to or served on the Buyer at the address of the Buyer shown on the contractor invoice and in the case of the Seller at its registered office for the time being and may be given or served either

a by letter by leaving the same or sending the same by first class post in a pre paid envelope and a notice so given or served shall be deemed to have been given or served

1 on the day it was so left or on the day following that on which it was posted in the case of the Seller or in the case of the Buyer if the address of the Buyer is within Great Britain or

2 within 7 days of the date of posting otherwise or
b by telex cable or facsimile transmission and a notice is given or sent shall be deemed to have been given or served within 24 hours of transmission

17 This contract shall be governed by English law and the Buyer and the Seller shall submit to the jurisdiction of the English courts