

TERMS OF SALE

1. DEFINITIONS

- 1.1. 'Ampac' means Ampac Europe Limited registered in England and Wales under number 3653088 and whose registered office is at Unit 2 Waterbrook Estate, Waterbrook Road, Alton, Hampshire, GU34 2UD.
- 1.2. 'Force Majeure Event' means an event, circumstance or cause beyond a party's reasonable control, including but not limited to, acts of God, war, strikes, lockouts, trade disputes, fire, breakdowns, suspension of production, accidents, interruption of transport, epidemic, pandemic (including, for the avoidance of doubt, COVID-19), government action or any other cause whatsoever (whether or not of a like nature of those specified above) outside its reasonable control,
- 1.3. 'Goods' means the goods, equipment, material and/or chattels and services as supplied by Ampac to the Trader as indicated in the Order.
- 1.4. 'Order' means the Trader's order for the Goods, as set out in the Trader's purchase order form or in the Trader's written acceptance of Ampac's quotation (email sufficient).
- 1.5. 'Terms' means the terms and conditions set out in this document as amended from time to time in accordance with clause 17.9.
- 1.6. 'Trader' means the person firm or company who accepts Ampac's written quotation for the sale of Goods or whose written order for the goods is accepted by Ampac.

2. STATUS

Unless otherwise agreed to in writing by Ampac, the Goods are supplied only on these Terms. Previous dealings between Ampac and the Trader shall not vary or replace these Terms or be deemed in any circumstances whatsoever to do so. The giving by the Trader of any delivery instructions for the Goods or any part thereof or the acceptance by the Trader of delivery of the Goods or any part of or any conduct by the Trader in confirmation of the transaction after receipt by the Trader of Ampac's acceptance of the Trader's Order shall constitute unqualified acceptance by the Trader of these Terms, unless otherwise agreed in writing by Ampac and notwithstanding any terms appearing in any Order or other documentation provided by the Trader.

3. STATUTORY PROVISIONS

- 3.1. THE TRADER'S ATTENTION IS DRAWN TO STATUTORY PROVISIONS, WHICH MAY APPLY TO THESE TERMS. Any rights, remedies, liabilities, conditions, warranties, standards or specifications which apply to or in respect of any contract arising between Ampac and the Trader under or by virtue of the Unfair Contract Terms Act 1977 there of affecting such contract and which cannot be excluded from such contract are deemed to apply to such contract, notwithstanding any inconsistency with these Terms.
- 3.2. Subject to clause 3.1; no conditions or warranties expressed or implied, by law and no representations or statements are binding on Ampac unless set out in these Terms or expressly incorporated into these Terms by reference in writing.
- 3.3. 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 these Terms.

4. QUOTATIONS

- 4.1. Every quotation of Ampac is by way of invitation to treat only and shall not be deemed to be an offer by Ampac. There shall be no contract between Ampac and the Trader until an Order is accepted by Ampac, in writing and such contract shall only be on the terms contained therein.
- 4.2. All quotations are open for acceptance for the number of days specified in the quotation or, if not specified, then not more than 60 days from the date of the quotation.
- 4.3. Ampac's quotation relates only to such Goods as are specified therein and is given subject to such Goods being available at the time of receipt of the Order.
- 4.4. Prices included in Ampac's quotation are based upon the quantities of Goods referred to in the quotation. Should the Trader offer to purchase a quantity of Goods which is at variance to the quantity referred to in the quotation, Ampac reserves the right to amend the price quoted for such Goods.
- 4.5. The prices quoted in a published price list are for the stipulated quantities only and must not be taken to apply to an Order for any lesser quantity. Changes in quantities may result in increases in unit prices and possible delays in delivery.

5. SPECIFICATIONS

- 5.1. The Trader shall approve in writing any drawing, specification or other information supplied by Ampac in relation to the Goods. The Trader shall be responsible for and bear the cost of any alteration to Goods supplied by Ampac arising from any discrepancy, error or omission in any drawing, specification or other information supplied by or approved by the Trader.

TERMS OF SALE

- 5.2. Unless Ampac has specifically been advised in writing, it has no knowledge of the use to which the Trader proposes to put any Goods supplied by Ampac to the Trader.
- 5.3. Unless otherwise stated, all descriptive and shipping specifications, drawings, dimensions and weights submitted by Ampac in relation to any quotation shall be treated as final insofar as they relate to the Goods but are approximate only and any descriptions, illustrations and data contained in any catalogues, price lists and/or other advertising or promotional material are intended by Ampac only to present a general view of goods described therein and none of such specifications, drawings, dimensions, weights, descriptions, illustrations of data shall form part of any contract arising between Ampac and the Trader.

6. PRICES

- 6.1. Prices quoted by Ampac are those stated at the date of quotation and shall be subject to variation without notice.
- 6.2. Unless otherwise stated in writing in any quotation, any sales tax, stamp duty, impost goods and services tax or value added tax or any other taxes, levy or the like, imposed now or in the future on either the sale, manufacture, dealing with distribution, import or use of Goods or measured by the selling price of Goods or otherwise how so ever shall not be included in the price of the goods. The Trader shall pay such sales tax, stamp duty, impost goods and services tax or value added tax to Ampac in addition to the price of the Goods at the same time as it pays the price of the Goods.

7. PAYMENT

- 7.1. Unless otherwise agreed in writing by Ampac and the Trader, payment shall be due and payable by the Trader to Ampac no later than the last day of the calendar month following the calendar month in which the Goods were dispatched by Ampac to the Trader ('the **Payment Date**').
- 7.2. Should the Trader fail to make any payment due and payable to Ampac on the Payment Date, Ampac shall have the right, in addition to all other payments to which it is entitled at law, to charge interest on the overdue amount. Such interest (unless otherwise specified by Ampac) to be charged at a rate calculated on a daily basis, from the Payment Date, in accordance with the Bank of England Base Rate plus 2%.
- 7.3. All amounts due under these Terms and/or the Order shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 7.4. If payment is not made by the Payment Date Ampac shall, without prejudice to any other right to damages or other remedies, be entitled to withhold further deliveries of the Goods until payment of such account is made and/or to cancel the contract in respect of the whole or any part of the Goods remaining undelivered.
- 7.5. Ampac shall be entitled to claim all costs of the collection, of any unpaid monies including legal fees, whether incurred in or out of court, on appeal, in arbitration in the bankruptcy court or in any insolvency proceedings.

8. CREDIT

If in Ampac's opinion the Trader's credit is unsatisfactory or satisfactory security for payment is not given on request, Ampac may require payment of the whole or part of the price of the Goods from the Trader in advance and pending such payment delivery may be suspended. In the event of such advance payment not being made within a reasonable period stipulated by Ampac, Ampac may cancel the Order without liability.

9. DELIVERY

- 9.1. These Terms are strictly ex works (EXW Incoterms) unless otherwise specified. Any period given for delivery starts from the date the Order is accepted by Ampac.
- 9.2. Ampac shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after Ampac notifies the Trader that the Goods are ready. Delivery is completed on the completion of unloading of the Goods at the Delivery Location.
- 9.3. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Ampac shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Trader's failure to provide Ampac with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 9.4. To ensure Ampac's UK Tax compliance where Goods are sold to EC and Non-EC countries the Trader or his Freight Forwarder, Shipper or Shipping Agent must provide Proof of Delivery within 3 months of dispatch of the Goods.
- 9.5. Carriage is by any method of transport at Ampac's discretion and is subject to the conditions of carriage agreed with the carrier.
- 9.6. Where Ampac is responsible for transport, Ampac will replace or repair free of charge, goods lost or damaged in such transit, provided both the carrier and Ampac are advised (otherwise and upon the carry of documents) within twenty-one days of issue of advice or invoice in case of non-delivery and within three days of delivery in case of damaged goods.
- 9.7. The Trader shall ensure that the goods supplied hereunder are inspected as soon as reasonably practicable after receipt by the Trader but in no event later than seven (7) days after receipt. Inspection expenses should be borne

TERMS OF SALE

by the Trader and failure to notify Ampac prior to the expiration of such period of any matter making the goods non-conforming, shall constitute unqualified and irrevocable acceptance and a waiver by the Trader or any claim with respect to the delivery.

- 9.8 If the Trader fails to accept delivery of the Goods within three (3) days of Ampac notifying the Trader that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or Ampac's failure to comply with its obligations under these Terms: (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third day after the day on which Ampac notified the Trader that the Goods were ready; and (b) Ampac shall store the Goods until delivery takes place, and charge the Trader for all related costs and expenses (including insurance). Ampac further reserves the right to give the Trader notice in writing to accept delivery of the goods within the period (not less than fourteen days) specified in the notice and to cancel the contract if delivery is not affected within such period. This cancellation shall entitle Ampac to otherwise resell or dispose of all or part of the Goods and to charge the Trader for any shortfall below the price of the Goods.
- 9.9 Deliveries, which are delayed at the Trader's request, may be invoiced and dated the date Ampac is prepared to deliver. Additional charges for warehousing, freight and other incidental expenses created by the delay may be imposed by Ampac on the Trader.
- 9.10 Ampac reserves the right to make partial deliveries of any Goods which are the subject of any contracts between Ampac and the Trader and to invoice such deliveries separately. Any delay in delivery or defect in an instalment shall not entitle the Trader to cancel any other instalment.
- 9.11 If Ampac is prevented (directly or indirectly) from making delivery of the Goods or any part thereof by reason of a Force Majeure Event Ampac shall be under no liability whatsoever to the Trader and shall be entitled as its option either to cancel the contract or to extend the time of its performance and the Trader shall not be relieved of any obligation to accept or pay for Goods by reason of any delay in delivery or dispatch.
- 9.12 Ampac can accept no liability for exceeding the period given for delivery or any agreed extension of it, but Ampac shall use all reasonable endeavours to avoid delay.
- 9.13 In the event that any agreements, arrangements or understandings between the Trader and Ampac in relation to supply of Goods is terminated, by agreement between the Trader and Ampac, the Trader shall, at the cost of the Trader, be obligated to arrange the return of any relevant Goods to Ampac using the same method of freight as that used to transport the relevant Goods to the Trader and the risk in the Goods shall remain with the Trader until the same are re-delivered to Ampac.

10 RISK AND PROPERTY

- 10.1 All goods supplied hereunder shall be at the Trader's risk on completion of delivery by Ampac, as set out in clause 9.1 herein.
- 10.2 Notwithstanding any delivery of the goods or any part thereof or any other provision of these Terms, the Goods shall remain the sole and absolute property of Ampac as full legal and equitable owner until such time as the Trader shall have paid Ampac the price in full together with the full price of any other goods that are the subject of any other contract between Ampac and the Trader.
- 10.3 The Trader acknowledges that the Trader is in possession of the goods delivered by Ampac solely as bailee for Ampac until such time as the full price thereof is paid to Ampac together with the full price of any other goods that are the subject of any other contract between Ampac and the Trader.
- 10.4 Until such time as the Trader becomes owner of the Goods:
- (i) it will store them on its premises separately from its own goods or those of any other person and in a manner, which makes them readily identifiable as the goods of Ampac;
 - (ii) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - (iii) the Trader is licensed by Ampac to, in the ordinary course of the Trader's business, process the goods in such fashion as it may wish and/or incorporate them in/or with any product or products subject to the express condition that the new product or products or any chattel whatsoever containing any part of the goods shall be separately stored and marked so as to be identifiable as being made from or with the goods of the property of Ampac;
 - (iv) if goods which are the property of Ampac are mixed with goods which are the property of a person other than the Trader or are processed with or incorporated therein, the product thereof shall be owned in common with that other person;
 - (v) the Trader shall be at liberty to agree to sell Ampac's goods or any product produced from or with Ampac's goods on the express condition that such an agreement to sell shall take place as agent and bailee for Ampac, and that the entire proceeds of sale and monies thereof are held in trust for Ampac and are not mingled with any other monies and shall at all times be identifiable as Ampac monies; and

TERMS OF SALE

- (vi) if the Trader has not received the proceeds of any such sale, he will, if called upon to do so by Ampac, within seven (7) days thereof assign and sell all rights against the person or persons to whom he has supplied any product or chattel made from or with Ampac's goods.
- 10.5 Each of the above sub-clauses shall be deemed to be distinct and separate conditions and the validity or invalidity or any particular sub-clause shall not affect the validity or invalidity of the remaining sub-clauses.
- 10.6 Ampac shall retain a general lien on the Trader's goods, still in the Trader's possession, for any unpaid balance the Trader may owe Ampac. The Trader shall indemnify Ampac against all claims, demands, damages, penalties, costs, expenses and liabilities arising out of or in connection with Ampac's continued ownership as aforesaid (including, without limitation, arising out of the use or operation of all goods supplied hereunder by the Trader or on the Trader's behalf).
- 11. DESIGN RIGHTS**
- 11.1 Ampac's offer or quotation and any subsequent contract may contain information for the Trader's secret and confidential use based on Ampac's own design and development work and that of Ampac's technical collaborators. The Trader is hereby bound not to disclose this information to any third party without Ampac's consent in writing. The Trader is further bound not to make or have made by any third party any goods described in the offer or quotation and in any drawings, designs, proposals, photographs, plans, reports, recommendations, specifications, or any other visible data accompanying or relating to the offer and any subsequent contract.
- 11.2 The Trader undertakes to indemnify and hold harmless Ampac against all losses, costs, damages or other liabilities: (i) should any design or instruction by the Trader to Ampac involve Ampac in an actual or threatened dispute as a result of alleged infringement of a third party's intellectual property rights; and (ii) arising from a third-party claim resulting from any act or omission of the Trader in installing and/or configuring the Goods.
- 12 WARRANTY**
- 12.1 Ampac hereby warrants to the Trader that Goods manufactured by Ampac, or its related companies, shall be free from defects due to faulty design, materials and workmanship (except as regards defects specifically drawn to the Trader's attention, before any contract is formed between Ampac and the Trader, or, if the Trader examines the Goods, the subject of such contract before such contract is formed then except as regards defects which that examination ought to reveal).
- 12.2 If it is proven to Ampac's reasonable satisfaction that Goods manufactured by Ampac or its related companies are not free from defects due to faulty design, materials and workmanship (except as revealed by examination as referred to in Clause 12.1 of these Terms) then Ampac shall, at its cost and its option, either:
 - (i) repair such Goods;
 - (ii) replace such Goods with the same or equivalent goods at the point of delivery applicable to the contract under which such Goods are supplied to the Trader by Ampac; or
 - (iii) refund to the Trader the contract price of such Goods.
- 12.3 This warranty does not apply in respect of defects due to or arising from:
 - (i) incorrect or negligent handling, fair wear and tear, willful damage, abnormal storage, disregard of operating and/or maintenance instructions, overloading, unsuitable operating conditions, defective civil or building work, lightning, accident, neglect, faulty erection (unless carried out by Ampac), a Force Majeure Event or whilst unauthorised repairs or alterations have been carried out;
 - (ii) the use of Goods of consumable nature;
 - (iii) defects occurring outside thirty-six (36) calendar months after the Goods have been delivered to the Trader. If delivery was delayed for reasons beyond Ampac's control, then thirty-six (36) calendar months from delivery or forty-two (42) calendar months after Ampac first notified the Trader that Ampac was ready to deliver the Goods (whichever period expires earlier);
 - (iv) Ampac is notified in writing within seven (7) days of the alleged defect first coming to the notice of the Trader and the Trader returns the defective Goods to Ampac, or if necessary, at the sole discretion of Ampac, to the works where such Goods were manufactured or assembled, free of charge; and
 - (v) the Trader has fulfilled all its contractual obligations.
- 12.4 This warranty will only apply if the Goods are returned to the original point of delivery. It is the responsibility of, and at the risk of the Trader to return the Goods to the original point of delivery.
- 12.5 The benefit of this warranty is personal to the Trader and is non-assignable without the prior written consent of Ampac.

TERMS OF SALE

13 LIMITATION OF LIABILITY

- 13.1 Nothing in these Terms limits any liability which cannot legally be limited, including liability for: (a) death or personal injury caused by negligence; (b) fraud or fraudulent misrepresentation; (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or (d) defective products under the Consumer Protection Act 1987.
- 13.2 Subject to clause 13.1, Ampac's total liability to the Trader whether in contract, tort (including negligence and breach of statutory duty) or otherwise shall not exceed the price of the Goods specified in the Order.
- 13.3 Subject to clause 13.1, the following types of loss are wholly excluded whether in contract, tort (including negligence and breach of statutory duty) or otherwise: (a) loss of profits; (b) loss of sales or business; (c) loss of agreements or contracts; (d) loss of anticipated savings; (e) loss of use or corruption of software, data or information; (f) loss of or damage to goodwill; and (g) indirect or consequential loss.

14 SITE PREPARATION.

The Trader shall at the Trader's expense prepare the site for installation of the Goods so as to satisfy any special physical requirements as specified by Ampac or the manufacturer.

15 TERMINATION

- 15.1 Without limiting its other rights or remedies, Ampac may terminate these Terms with immediate effect by giving written notice to the Trader if the Trader: (a) commits a material breach of any provision of these Terms and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of being notified in writing to do so; (b) 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), obtaining a moratorium, 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 (c) suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business.
- 15.2 Without limiting its other rights or remedies, Ampac may suspend provision of the Goods or any other contract between the Trader and Ampac if the Trader becomes subject to any of the events listed in clause 15.1, or Ampac reasonably believes that the Trader is about to become subject to any of them.
- 15.3 Without limiting its other rights or remedies, Ampac may terminate these Terms and/or the Order with immediate effect if the Trader fails to pay any amount due under these Terms or the Order on the Payment Date. On termination of these Terms and/or the Order for any reason, the Trader shall immediately pay to Ampac all of Ampac's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, Ampac shall submit an invoice, which shall be payable by the Trader immediately on receipt.
- 16 **LAW.** These Terms, the Order and any contract arising between Ampac and the Trader shall be governed, construed, and operated in accordance with the laws of England and Wales. 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 these Terms and/or the Order.

17 MISCELLANEOUS

- 17.1 Ampac may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under these Terms and/or the Order. The Trader may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under these Terms and/or the Order without the prior written consent of Ampac.
- 17.2 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 17.3.
- 17.3 Each party may disclose the other party's confidential information: (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under these Terms and/or the Order. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with these Terms; and (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with these Terms and/or the Order.
- 17.4 These Terms and/or the Order constitute 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. Without limitation, any and all terms of the Trader are hereby excluded regardless of whether they are attached to any communications between the parties.
- 17.5 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 these Terms and/or the Order. Each party agrees that

TERMS OF SALE

it shall have no claim for innocent or negligent misrepresentation based on any statement in these Terms and/or the Order.

- 17.6 No failure or delay by a party to exercise any right or remedy provided under these Terms and/or the Order 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.
- 17.7 If any provision or part-provision of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Terms. If any provision of these Terms is deemed deleted, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 17.8 Unless expressly stated otherwise, these Terms and/or the Order do not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms.
- 17.9 No variation of these Terms shall be effective unless it is in writing and signed by Ampac and the Trader (or their authorised representatives).