

TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

1. Interpretation

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

"Accutronics"	Accutronics Limited.
"Accutronics' Equipment"	any equipment, including without limitation, tools, systems, cabling or facilities provided by Accutronics and used directly or indirectly by the Supplier in the supply of the Services.
"Background Intellectual Property"	any Intellectual Property Rights, other than Foreground Intellectual Property, arising in respect of the Technology, which is used in performing any Contract.
"Contract"	any contract between Accutronics and the Supplier for the sale and purchase of Goods and/or the provision of Services, incorporating these conditions.
"Deliverables"	all Documents, products, equipment and materials developed by the Supplier in relation to the Services in any form, including computer programmes, data, reports and specifications (including drafts).
"Delivery Location"	the place where delivery of the Goods and/or performance of the Services is to take place under condition 5.
"Document"	includes without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.
"Foreground Intellectual Property"	any Intellectual Property Rights that arise or are obtained or developed by, or by a contractor on behalf of, either party in respect of the Technology in the course of or in connection with any Contract.
"Goods"	any goods agreed in the Contract to be supplied to Accutronics by the Supplier (including any part or parts of them).

"Input Material"	all Documents, information and materials provided by Accutronics relating to the Services including (without limitation), computer programmes, data, reports and specifications.
"Intellectual Property Rights"	all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade, dress or get up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
"Services"	the services, including the Deliverables, to be provided by the Supplier under the Contract.
"Supplier"	the person, firm or company who supplies the Goods and/or Services to Accutronics.
"Supplier's Equipment"	any equipment, including tools, systems, cabling or facilities, provided by the Supplier and used directly or indirectly in the supply of the Services which are not the subject of a separate Agreement between the parties under which title passes to Accutronics.
"Technology"	all inventions, designs, information, know how, specifications, formulae, data, processes, methods, techniques and other technology in connection with the development, manufacture and production of the Goods and/or the Services used in, generated or otherwise created in performing any Contract.
"VAT"	value added tax chargeable under English law for the time being and any similar additional tax.

- 1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.3 Words in the singular include the plural and in the plural include the singular.
- 1.4 A reference to one gender includes a reference to the other gender.
- 1.5 Condition headings do not affect the interpretation of these conditions.

2. Application of Terms

- 2.1 Subject to any variation under condition 2.3, these conditions are the only conditions upon which Accutronics is prepared to deal with the Supplier and they shall govern the Contract to the entire exclusion of all other terms or conditions.
- 2.2 No terms or conditions endorsed on, delivered with or contained in the Supplier's quotation, acknowledgement or acceptance of order, specification or other document supplied by the Supplier or implied by trade custom, practice or course of dealing shall form part of the Contract and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.
- 2.3 These conditions apply to all Accutronics' purchases and any variation to these conditions and any representations about the Goods and/or Services shall have no effect unless expressly agreed in writing and signed by an authorised representative of Accutronics.
- 2.4 The Supplier's quotation for Goods and/or Services constitutes an offer by the Supplier to supply Goods and/or Services on these terms and conditions. No offer placed by the Supplier shall be accepted by Accutronics other than by Accutronics issuing a written and executed purchase order or acceptance of quotation or tender for Goods and/or Services, at which point a contract for the supply and purchase of such Goods and/or Services on these terms and conditions will be established.

3. Description

The quantity and description of the Goods and/or Services shall be strictly as set out in Accutronics' purchase order or acceptance of quotation or tender.

4. Indemnity

- 4.1 The Supplier shall keep Accutronics indemnified in full against all direct, indirect or consequential liabilities (all three of which terms include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), loss, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by Accutronics as a result of or in connection with:
 - 4.1.1 defective workmanship, quality or materials;
 - 4.1.2 an infringement or alleged infringement of any Intellectual Property Rights caused by the use, manufacture or supply of the Goods and/or Services; and

- 4.1.3 any claim made against Accutronics in respect of any liability, loss, damage, injury, cost or expense sustained by Accutronics' employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the Goods and/or Services as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of the terms of the Contract by the Supplier.

5. Delivery and Performance

- 5.1 Unless otherwise specified in the Contract, delivery of the Goods carriage paid and/or provision of the Services shall take place at Accutronics' place of business ("**Delivery Location**"). The Supplier shall offload Goods at its own risk as directed by Accutronics.
- 5.2 The date for delivery and/or performance shall be as specified in Accutronics' purchase order or acceptance of quotation or tender, or, if no such date is specified, then delivery and/or performance shall take place within 28 days of Accutronics' purchase order or acceptance of quotation or tender.
- 5.3 The Supplier shall invoice Accutronics upon receipt by Accutronics of the Goods or completion of performance of the Services.
- 5.4 The Supplier shall ensure that each delivery of Goods is accompanied by a delivery note which shows the purchase order number, date of order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.
- 5.5 Time for delivery and/or performance shall be of the essence.
- 5.6 Unless otherwise stipulated by Accutronics in the purchase order or acceptance of quotation or tender, delivery and/or performance shall only be accepted by Accutronics in normal business hours.
- 5.7 The Supplier shall not deliver the Goods in instalments without Accutronics prior written consent. Where it is agreed that the Goods are 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 Accutronics to the remedies set out in clause 5.8.
- 5.8 If the Goods are not delivered or the Services are not performed on the due date then, without prejudice to any other rights which it may have, Accutronics reserves the right to:
- 5.8.1 cancel the Contract in whole or in part;
 - 5.8.2 refuse to accept any subsequent delivery of Goods or part performance of the Services which the Supplier attempts to make;
 - 5.8.3 recover from the Supplier any expenditure reasonably incurred by Accutronics in obtaining the Goods and/or Services in substitution from another Supplier; and

- 5.8.4 claim damages for any additional costs, loss or expenses incurred by Accutronics which are in any way attributable to the Supplier's failure to deliver the Goods and/or to perform the Services on the due date.
- 5.9 The Supplier shall from the date set out in the Order and for the duration of the Contract, provide the Services to Accutronics in accordance with the terms of the Contract and shall, in relation to the Services:
- 5.9.1 co-operate with Accutronics in all matters relating to the Services and comply with all instructions of Accutronics;
 - 5.9.2 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
 - 5.9.3 observe, and ensure that all its employees engaged in relation to the Services observe, all health and safety rules and regulations and any other security requirements that apply at any of Accutronics' premises;
 - 5.9.4 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
 - 5.9.5 notify Accutronics as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Services; and
 - 5.9.6 comply with all relevant legislation in relation to the Services, the installation of the Supplier's Equipment, the use of Input Material and the use of all Documents, information and materials provided by the Supplier relating to the Services which existed prior to the commencement of the Contract and the use of Accutronics' Equipment in relation to the Supplier's Equipment;
 - 5.9.7 ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Contract and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by Accutronics;
 - 5.9.8 provide all equipment, tools and vehicles and such other items as are required to provide the Services;
 - 5.9.9 use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services will transfer to Accutronics, will be free from defects in workmanship, installation and design;
 - 5.9.10 hold all materials, equipment and tools, drawings, specifications and data supplied by Accutronics to the Supplier in safe custody at its own risk, maintain such materials in good condition until returned to Accutronics, and not dispose or use such materials other than in accordance with Accutronics written instructions or authorisation.
- 5.10 If the Supplier requires Accutronics to return any packaging material to the Supplier, that fact must be clearly stated on any delivery note delivered to Accutronics and

any such packaging material shall be only be returned to the Supplier at the cost of the Supplier.

- 5.11 If Goods or Deliverables are delivered to Accutronics in excess of the quantities ordered, Accutronics shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier's risk and shall be returnable at the Supplier's expense.
- 5.12 Accutronics shall not be deemed to have accepted any Goods and/or Services until it has had 14 days to inspect them following delivery or performance. Accutronics shall also have the right to reject Goods and/or Services as though they had not been accepted for 14 days after any latent defect in the Goods and/or Services has become apparent.

6. Risk/Title

Goods shall remain at the risk of the Supplier until delivery to Accutronics is complete (including offloading and stacking) when ownership of the Goods shall pass to Accutronics.

7. Price

- 7.1 The price for the Goods and/or Services shall be as stated in Accutronics' purchase order or acceptance of quotation or tender and unless otherwise agreed in writing by Accutronics shall be exclusive of value added tax but inclusive of all other charges.
- 7.2 No variation in the price nor extra charges shall be accepted by Accutronics.

8. Payment

- 8.1 Accutronics shall pay the price of the Goods and/or Services within 60 days of delivery of the Goods and/or performance of the Services but time for payment shall not be of the essence of the Contract.
- 8.2 Without prejudice to any other right or remedy, Accutronics reserves the right to set off any amount owing at any time from the Supplier to Accutronics against any amount payable by Accutronics to the Supplier under the Contract.

9. Licences and Consents

- 9.1 The Supplier is responsible for obtaining, at its own cost, such licences, governmental or other authorisations and any other consents required from time to time in relation to the Goods and/or Services and, if required by Accutronics, the Supplier shall make those licences, authorisations and consents available to Accutronics prior to the relevant shipment or commencement of works.
- 9.2 Accutronics shall assist the Supplier in every manner reasonably practicable in securing any such licences, authorisations and consents as may be required but Accutronics shall not be liable to the Supplier if any such authorisation or consent is delayed, refused, revoked, restricted or not renewed and in no such case shall the Supplier be relieved of its obligations under the Contract.

10. Quality

- 10.1 Where the Supplier is not the manufacturer of any Goods or Deliverables, the Supplier shall use its best endeavours to transfer to Accutronics the benefit of any warranty or guarantee given to the Supplier.
- 10.2 The Supplier warrants that:
 - 10.2.1 on delivery, and for a period of the shorter of 14 months from the date of delivery or 12 months from sale of the Goods or any products incorporating them, the Goods shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
 - 10.2.2 the Goods and/or Services will conform with all descriptions and specifications provided to Accutronics by the Supplier; and
 - 10.2.3 the Services will be performed in accordance with the standards set out in clause 5.9.
- 10.3 Accutronics' rights under these terms and conditions are in addition to the statutory terms implied in favour of Accutronics by the Sale of Goods Act 1979, the Supply of Goods and Services Act 1982 and any other statute.
- 10.4 Without prejudice to any other right or remedy which Accutronics may have, if any Goods and/or Services are not supplied in accordance with, or the Supplier fails to comply with, any of the terms of the Contract, Accutronics shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods and/or Services have been accepted by Accutronics;
 - 10.4.1 to rescind the Order;
 - 10.4.2 to reject the Goods (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods so returned shall be paid forthwith by the Supplier;
 - 10.4.3 at Accutronics' option to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods and/or Services or to supply replacement Goods and/or Services and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
 - 10.4.4 to refuse to accept any further deliveries of the Goods or performance of the Services, but without any liability to the Supplier;
 - 10.4.5 to carry out at the Supplier's expense any work necessary to make the Goods and/or Services comply with the Contract; and/or
 - 10.4.6 to claim such damages as may have been sustained in consequence of the Supplier's breach or breaches of the Contract.
- 10.5 The provisions of this condition 10 shall survive any performance, acceptance or payment pursuant to the Contract and shall extend to any substituted or remedial Goods and/or Services provided by the Supplier.

11. Intellectual Property Rights

- 11.1 All Background Intellectual Property is and shall remain the exclusive property of the Supplier or Accutronics, as the case may be (or, where applicable, the third party from whom its right to use the Background Intellectual Property has derived).
- 11.2 Subject to clause 11.3, Foreground Intellectual Property shall vest in and be owned absolutely by the party creating or developing the Technology in respect of which it arises. To the extent that the Supplier subcontracts performance of the Contract, the Supplier shall ensure that any Foreground Intellectual Property arising from the work of its subcontractor shall be assigned to it absolutely.
- 11.3 To the extent that any Foreground Intellectual Property arises or is obtained in respect of technology developed by the parties jointly, it shall be jointly owned in equal and undivided shares by the parties. If any such jointly owned Foreground Intellectual Property is registerable, Accutronics shall be responsible for the filing and prosecution of application for registration on behalf of the parties and in their joint names in such countries as the parties agree in writing. Accutronics shall be responsible for the maintenance and renewal of any such registrations in such countries, subject to the Supplier co-operating in the provision of all necessary assistance, information instructions and bearing an equal proportion of any fees and costs, including reasonable agents and lawyers fees, in relation to such registrations provided that:
- 11.3.1 if only one party wishes to apply for registration in any country or countries, the party wishing to apply may do so at its sole costs and expense on behalf of both parties and in their joint names, and the party not making such an application shall provide the party making the application with all necessary assistance, information, and instruction;
- 11.3.2 neither party shall amend or abandon any registration in respect of which the parties are jointly registered without the other party's written consent; and
- 11.3.3 the party making an application for registration shall consult with the other party at reasonable intervals concerning the application for and maintenance of such registration.
- 11.4 Each party shall immediately give written notice to the other party of any actual, threatened or suspected infringement of any party's Background Intellectual Property or Foreground Intellectual Property, whether jointly or solely owned, or any unauthorised use of either party's Technology.

12. Confidentiality and Accutronics' Property

- 12.1 The Supplier 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 Supplier by Accutronics, its employees, agents, consultants or sub-contractors and any other confidential information concerning Accutronics' business or its products which the Supplier may obtain, including, without limitation, Background Intellectual Property owned by Accutronics.

- 12.2 The Supplier may disclose such information:
- 12.2.1 to its employees who need to know such information for the purposes of carrying out the Supplier's obligations under the Contract; and
 - 12.2.2 as may be required by law, court order or any governmental or regulatory authority.
- 12.3 The Supplier shall ensure that its employees to whom it discloses such information comply with this condition 12.
- 12.4 All materials, equipment and tools, drawings, specifications and data supplied by Accutronics to the Supplier (including, without limitation, Input Materials and Accutronics' Equipment) shall, at all times, be and remain as between Accutronics and the Supplier the exclusive property of Accutronics, but shall be held by the Supplier in safe custody at its own risk and maintained and kept in good condition by the Supplier until returned to Accutronics, and shall not be disposed of, divulged to any other third party or used other than in accordance with Accutronics' written instructions or authorisation.

13. Termination

- 13.1 Accutronics shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Supplier written notice whereupon all work on the Contract shall be discontinued and Accutronics shall pay to the Supplier fair and reasonable compensation for work in progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss.
- 13.2 Accutronics shall have the right at any time by giving notice in writing to the Supplier to terminate the Contract forthwith if:
- 13.2.1 the Supplier commits a material breach of any of the terms and conditions of the Contract; or
 - 13.2.2 any distress, execution or other process is levied upon any of the assets of the Supplier; or
 - 13.2.3 the Supplier has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver manager, administrator or an administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Supplier or notice of intention to appoint an administrator is given by the Supplier or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of the Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a

petition presented to any court for the winding up of the Supplier or for the granting of an administration order in respect of the Supplier, or any proceedings are commenced relating to the insolvency or possible insolvency of the Supplier; or

13.2.4 the Supplier ceases or threatens to cease to carry on its business; or

13.2.5 the financial position of the Supplier deteriorates to such an extent that in the opinion of Accutronics the capability of the Supplier adequately to fulfil its obligations under the Contract has been placed in jeopardy; or

13.2.6 any event analogous to any of the foregoing occurs in relation to the Supplier in any jurisdiction.

14. Assignment

Unless otherwise specified in the Contract, the Supplier shall not be entitled to assign or sub-contract any or all of its duties or rights under the Contract or any part of it to any person, firm or company without the prior written consent of Accutronics.

15. Force Majeure

Accutronics reserves the right to defer the date of delivery of Goods or the date for provision of the Services or payment or to cancel the Contract or reduce the volume of the Goods and/or Services ordered (without liability to the Supplier) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of Accutronics including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

16. Variation

No variation in either the Goods to be supplied or Services to be provided under the terms of the Contract shall be made without the prior written consent of a duly authorised representative of Accutronics.

17. General

17.1 Each right or remedy of Accutronics under the Contract is without prejudice to any other right or remedy of Accutronics whether under the Contract or not.

17.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

- 17.3 Failure or delay by Accutronics in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 17.4 Any waiver by Accutronics of any breach of, or any default under, any provision of the Contract by the Supplier shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 17.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 17.6 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law, and the parties submit to the exclusive jurisdiction of the English courts.

18. Communications

- 18.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or e-mail:
- 18.1.1 (in case of communications to Accutronics) to its registered office or such changed address as shall be notified to the Supplier by Accutronics; or
- 18.1.2 (in the case of communications to the Supplier) to any address of the Supplier set out in any document which forms part of the Contract or such other address as shall be notified to Accutronics by the Supplier.
- 18.2 Communications shall be deemed to have been received:
- 18.2.1 if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- 18.2.2 if delivered by hand, on the day of delivery; or
- 18.2.3 if sent by fax or e-mail on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.