

**Air & Ground Aviation Limited**  
**Terms and Conditions of Sale**

The following Terms and Conditions are the terms on which Air and Ground Aviation Ltd sells products and supersedes all other terms and conditions relating to the subject matter of these conditions.

**1. INTERPRETATION**

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

**The Company:** Air & Ground Aviation Limited

**The Buyer:** the person, firm or company who purchases the Goods from the Company.

**Contract:** any contract between the Company and the Buyer for the sale and purchase of the Goods, incorporating these conditions.

**Days/Dates.** Days will be shown as business days unless shown otherwise.

**Force Majeure.** See Condition 12.

**Headings.** Headings are for convenience only and shall not affect the interpretation of these Terms and Conditions or purported to be included in the Buyers order.

**Delivery Point:** the place where delivery of the Goods is to take place under Condition 4 below.

**Goods:** any goods, materials or services agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them).

**Material Condition.** Goods will be supplied in the Material Condition shown on the quotation.

**Language.** All documents are to be in English. Errors in translation will not be accepted.

1.2 A reference to a 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. In the event of dispute, English law will prevail.

1.3 Words in the singular include the plural and in the plural include the singular.

**2. APPLICATION OF TERMS**

2.1 Subject to any variation under condition 2.3 below, the Contract shall be on these terms and conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply).

2.2 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 These conditions apply to all the Company's sales. Any variation to these Conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a director of the Company. The Buyer accepts that he/she has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the quotation or Contract. Nothing in this Condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

2.4 Each order or acceptance of a quotation for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Goods subject to these conditions.

2.5 Notwithstanding the fact of delivery of Goods to the Buyer, no order placed by the Buyer shall be deemed to be accepted by the Company until a written acceptance of an order is issued by the Company PROVIDED ALWAYS that except where Goods have been delivered, the Company shall have the right under these terms and conditions to withdraw any or part of the Goods from sale at any time up to the point of delivery without giving any reason with full credit being given by the Company to the Buyer in these circumstances

2.6 The Buyer shall ensure that the terms of its order are clear and unambiguous and any specific requirements are complete and accurate.

2.7 Any quotation is given on the basis that no Contract shall come into existence until the Company acknowledges the Buyer's order, see Clause 2.5 above. Any quotation is valid for a period of 90-calendar days from the issue date, provided that the Company has not previously withdrawn or extended it.

2.8 All quotations and sales are subject to prior sale, errors & omissions excepted and subject to availability.

2.9 The Company holds Goods for customers on a consignment basis with the reserved right to withdraw these Goods. The Company has no control over any such recalls. These customers may also require payment in full before Goods are released.

**3. DESCRIPTION**

3.1 The quantity, material condition and description of the Goods will be as set out in the Company's quotation.

3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

**4. DELIVERY AND ACCEPTANCE**

4.1 Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place at the Company's place of business Ex-Works (Incoterms 2010).

4.1.2 Where the Buyer requests delivery to be made using their own carrier and account number, the delivery shall be deemed to have taken place on collection by the carrier.

4.1.3 The Buyer shall be responsible for any goods lost or damaged in transit and shall ensure adequate insurance cover is arranged.

4.2 The Buyer shall take delivery of the Goods within 10-days of the Company giving it notice that the Goods are ready for delivery/collection. Thereafter, storage costs shall be charged to the Buyer at a reasonable commercial rate.

4.3 Dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.

4.4 Subject to the other provisions of these Conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 180 days.

4.5 The Company will not be liable if the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licenses or authorisations:

4.5.1. risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence);

4.5.2. the Goods shall be deemed to have been delivered; and

4.5.3. the Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

4.6 The Buyer shall provide at the Delivery Point and at its own expense adequate and appropriate equipment and manual labour for loading the Goods.

4.7 If the Company delivers to the Buyer a quantity of Goods of up to 10% more or less than the quantity accepted by the Company, the Buyer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or short fall and shall pay for such Goods at the pro rata Contract rate.

4.8 The Company may deliver the Goods by separate installments. Each separate installment shall be invoiced and paid for in accordance with the provisions of the Contract.

4.9 Each installment shall be a separate Contract and no cancellation or termination of any one Contract relating to an installment shall entitle the Buyer to repudiate or cancel any other Contract or installment.

4.10 Prices on quotations do not include shipping fees, however, unless prior notice is given, the price includes free packing, handling and packaging materials. The Buyer should state their preferred method of delivery and provide the name of their nominated carrier and account number which they require the Goods to be shipped on. If however, the Buyer requires the Company to ship on their account, there will be an additional charge to the Sales Invoice noted as 'Freight Charge'.

4.10.1 Damages in transit should be reported immediately to the Carrier, or if shipped on the company's account, contact Air & Ground Aviation Ltd and inform of any damage.

4.10.2 Where the Buyer's nominated carrier is unable to fulfill its obligations and the Company incurs costs transporting goods on the Buyer's behalf, the Company shall be reimbursed in full by the Buyer.

**4.11 Acceptance:**

4.11.1 The Buyer shall be deemed to have accepted the Goods if they have not been rejected on or before the 7th day after delivery and Sales Invoice shall be sent to the Buyer's Accounts Department. The Buyer shall not be entitled to reject the goods in whole or in part after such date and full payment shall be required.

4.11.2 Should the goods fail the Buyer's inspection within the first 7-days, then a Notification of Quarantine (Returned Material Authority (RMA)) should be requested from the Company.

4.11.3 No Goods are to be returned for credit or refund to the Company unless prior written consent from the Company Quality Manager.

4.11.4 Order may only be cancelled subject to the Company's agreement but not if:

4.11.4.1. Goods have been dispatched or notification that they are ready for collection has been issued

4.11.4.2. Manufacture/production has commenced.

4.11.5 Exchanges and Returns must be returned in the original outer and inner packing. The original Copy of the Invoice or Pick List for Goods should be packed with the returned goods. The RMA number is to be shown on the exterior of the packing.

4.11.6 Where the Company supplies an incorrect item or damaged item, freight charges incurred by the Buyer may be reimbursed through the issue of a credit note for use on subsequent orders on a case by case basis. Claims for goods damaged in transit by the Buyers carrier will not be accepted.

4.12 Exchange/COP Cores must be returned complete within the dates specified within the documentation / agreement.

4.13 Title to the goods does not transfer until payment has been received in full and cleared and subject to clause 9 below.

4.14 Failure to comply with the Conditions above will result in denial or refund or a 15% restocking fee may be incurred

**5. NON-DELIVERY**

5.1 The quantity recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery, unless the Buyer can provide conclusive evidence to the contrary.

5.2 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Buyer gives written notice to the Company of the non-delivery within 7-days of the date when the Goods would in the ordinary course of events have been received.

5.3 Any liability accepted by the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods. Liability specifically excludes consequential loss, special damages or other indirect loss, however arising.

5.4 The Company shall not be liable for any delay in delivery caused by the unavailability of the Buyer at the delivery address or suspension or cancellation of transport services beyond the control of the Company or the performance of the Buyer's designated carrier.

**6. RISK/TITLE**

6.1 The Goods are at the risk of the Buyer from the time of delivery.

6.2 Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:

6.2.1 the Goods; and

6.2.2 all other sums which are or which become due to the Company from the Buyer on any account.

6.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:

6.3.1. hold the Goods on a fiduciary basis as the Company's bailee;

6.3.2. store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property; 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 and/or manager, administrator or 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 Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of 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 Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or

6.3.3 the Buyer suffers or allows any execution or lien, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or per

- form any of his/its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or the Buyer ceases to trade;
- 6.3.4 the Buyer encumbers or in any way charges any of the Goods.
- 6.4 The Company shall be entitled to recover payment for the Goods not withstanding that ownership of the Goods has not passed from the Company.
- 6.5 The Buyer grants the Company, its agents and employees an irrevocable license at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, to recover them where the Buyer's right to possession has terminated.
- 6.6 Where the Company is unable to determine that the right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.
- 6.7 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition 6 shall remain in effect.
- 7. PRICE**
- 7.1 The price for the Goods shall be the price set out in the quotation, unless otherwise agreed by the Company in writing.
- 7.2 The price for the Goods shown on the Company quotation shall be exclusive of any local or governmental taxes and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, unless agreed in writing. Such charges will be shown on the quotation and the Buyer shall pay in addition when it is due to pay for the Goods.
- 7.3 VAT is payable by the Buyer according to UK regulations. The Buyer shall supply such documentation as required within the necessary time limits to ensure compliance with VAT and Customs regulations. The Company reserves the right to charge additional costs and VAT where this documentation or information is not provided or /and the nature of the transaction has changed e.g., proof of shipment outside UK within 90-days of delivery/invoice date.
- 8. PAYMENT**
- 8.1 Payment of the price for the Goods is due in the currency specified on the invoice, and is to be made to the Company bank account shown on the invoice or advised on a case-by-case basis. Exchange rate will be applied based on the date of payment. Unless agreed in writing, payment by overseas (i.e., non-UK based) customers is to be by wire transfer or credit card and will be subject to a surcharge.
- 8.2 Payment shall be made in advance of despatch of the Goods (Proforma invoice), unless credit terms have been negotiated and agreed in writing.
- 8.3 No payment shall be deemed to have been received by the Company until cleared funds have cleared.
- 8.4 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.
- 8.5 The Buyer shall make payments in full due under the Contract without any deduction by way of set-off, counterclaim, discount, and abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.
- 8.6 If the Buyer fails to pay the Company any sum due in the performance of the Contract, the Buyer shall be liable to pay all debt collection costs and interest charges accrued. Interest will be charged at the annual rate of 4% above the base lending rate published by the Royal Bank of Scotland PLC, accruing on a daily basis until payment is made, whether before or after any judgment. The Company reserves the right to claim interest under the UK Late Payment of Commercial Debts (Interest) Act 1998.
- 9. WARRANTY**
- 9.1 Where the Company is not the manufacturer of the Goods, the Company shall endeavor to transfer to the Buyer the benefit of any warranty or guarantee given to the Company.
- 9.2 The Company warrants that subject to the other provisions of these conditions upon delivery, the Goods shall:
- 9.2.1 be of satisfactory quality within the meaning of the UK Sale of Goods Act 1979;
- 9.2.2 be reasonably fit for purpose
- 9.2.3 any additional warranty terms or conditions will be stated on the company quotation
- 9.3 The Company shall not be liable for a breach of warranty or Condition 9.2 above unless:
- 9.3.1 the Buyer gives written notice of the defect to the Company in accordance with Condition 4.11 above
- 9.3.2 the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods.
- 9.3.3 the Buyer makes any further use of the Goods after giving such notice.
- 9.3.4 the Buyer modifies or repairs the Goods.
- 9.4 Subject to Condition 9.3 if the Goods do not conform with the warranty terms, the Company shall at its option repair or replace such Goods or the defective part or refund the price of such Goods at the pro rata Contract rate. The Buyer shall return the Goods or the defective part to the Company.
- 9.5 If the Company complies with condition 9.4 it shall have no further liability for a breach of a warranty or in condition 9.2 in respect of such Goods.
- 9.6 Any Goods replaced shall belong to the Company and any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the warranty period.
- 10. LIMITATION OF LIABILITY**
- 10.1 Subject to Condition 4, Condition 5 and Condition 9, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
- 10.1.1 any breach of these conditions;
- 10.1.2 any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
- 10.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 10.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 10.3 Nothing in these conditions excludes or limits the liability of the Company:
- 10.3.1 for death or personal injury caused by the Company's negligence; or
- 10.3.2 for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
- 10.3.3 for fraud or fraudulent misrepresentation.
- 10.4 Subject to condition 10.2 and condition 10.3:
- 10.4.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and
- 10.4.2 the Company shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- 11. ASSIGNMENT**
- 11.1 The Company may assign the Contract or any part of it to any person, firm or company.
- 11.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.
- 12. FORCE MAJEURE**
- The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company 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, [provided that, if the event in question continues for a continuous period in excess of 180 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.]
- 13. EXPORT TERMS**
- 13.1 Where the goods are supplied for export from the United Kingdom the provisions of this Clause 13 shall (subject to any special terms agreed in writing between the Company and Buyer) apply notwithstanding any other provision of these conditions.
- 13.2 The Buyer shall be responsible for complying with any legislation or regulations covering the import of the Goods into the country of destination and for the payment of any duties. The Buyer is responsible at their own expense for the application for license or consents required by any government or other authority, and provide evidence to the Company on demand. Failure to do so shall not entitle the Buyer to withhold or delay payment. Any additional expenses or charges incurred by the Company from such failure shall be recoverable from the Buyer.
- 13.3 Where arrangements to apply for export licenses are required, the Buyer shall supply such accurate and complete information in reasonable time to enable this to be obtained prior to delivery. Goods will not be released to the Buyer until all mandatory export requirements have been met and supporting documents have been provided to the satisfaction of the Company.
- 13.4 Unless otherwise agreed in writing between the Buyer and the Company, the Goods shall be delivered Ex-works and the company shall be under no obligation to give the Buyer notice under section 32(3) of the Sale of Goods Act 1979.
- 13.5 The Buyer is required by Law to comply fully with all laws and regulations concerning the purchase and sale of products. The Buyer is required to comply with the International Traffic in Arms Regulations that control the export and import of defense-related articles and services on the United States Munitions List and any contrary diversion is prohibited.
- 14. GENERAL**
- 14.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 14.2 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.
- 14.3 Failure or delay by the Company 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.
- 14.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 14.5 The Parties to the Contract do not intend that any condition 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.
- 14.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.
- 15. COMMUNICATIONS**
- 15.1 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:
- 15.1.1 to the Company registered office or such changed address as shall be notified to the Buyer by the Company; or
- 15.2 to the Buyer's registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Buyer.
- 15.2 Communications shall be deemed to have been received:
- 15.2.1 if sent by pre-paid first class post, two days (excluding Saturday Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- 15.2.2 if delivered by hand, on the day of delivery; or
- 15.2.3 if sent by fax on a working day prior to 4.00 PM (GMT), at the time of transmission and otherwise on the next working day.
- 15.3 Communications addressed to the Company shall be marked for the attention of the Sales and Quality Manager.

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