

**ABI (UK) LIMITED**  
**CONDITIONS OF BUSINESS**

**1. Interpretation**

- (1) In these conditions:  
"Customer" means the person, firm or company who accepts ABI's quotation for the sale of the Goods or whose order for the Goods is accepted by ABI.  
"Goods" means the goods (including any instalment of the goods or any parts for them) which ABI is to supply in accordance with these conditions and the exclusion of any other terms and conditions subject to which such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer. Use of ABI in relation to any order of the Customer's reference number for that order shall not be or deemed to be acceptance by ABI of any terms and conditions of the Customer subject to which an order was made or purported to be made by the Customer. Where the Customer has purchased goods from ABI at any time prior to the purchase of the Goods and whether or not these conditions were incorporated into that previous contract they shall be deemed to be incorporated into all subsequent transactions between the parties.  
"Variation to these conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and ABI.  
(3) ABI's employees or agents are not authorised to make any representations concerning the Goods or any repairs unless confirmed by ABI in writing. In entering into the contract the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.  
(4) Any advice or recommendation given by ABI to its employees or agents to the Customer or its employees or agents as to the storage, application, use or any other use of the Goods which is not confirmed in writing by ABI is followed or acted upon entirely at the Customer's own risk, and accordingly ABI shall not be liable for such advice or recommendation which is not so confirmed.  
(5) Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by ABI shall be subject to correction without any liability of the part of ABI.

**2. Basis of the Sale**

- (1) ABI shall sell and the Customer shall purchase the Goods in accordance with any written quotation of ABI which is accepted by the Customer and any order of the Customer which is accepted by ABI, subject in either case to these conditions which shall govern the contract. The exclusion of any other terms and conditions subject to which such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer. Use of ABI in relation to any order of the Customer's reference number for that order shall not be or deemed to be acceptance by ABI of any terms and conditions of the Customer subject to which an order was made or purported to be made by the Customer. Where the Customer has purchased goods from ABI at any time prior to the purchase of the Goods and whether or not these conditions were incorporated into that previous contract they shall be deemed to be incorporated into all subsequent transactions between the parties.  
(2) Variation to these conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and ABI.  
(3) ABI's employees or agents are not authorised to make any representations concerning the Goods or any repairs unless confirmed by ABI in writing. In entering into the contract the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.  
(4) Any advice or recommendation given by ABI to its employees or agents to the Customer or its employees or agents as to the storage, application, use or any other use of the Goods which is not confirmed in writing by ABI is followed or acted upon entirely at the Customer's own risk, and accordingly ABI shall not be liable for such advice or recommendation which is not so confirmed.  
(5) Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by ABI shall be subject to correction without any liability of the part of ABI.

**3. Repair Work**

- (1) ABI warrants that it will use reasonable care and skill in carrying out any repairs to the goods which ABI agrees to carry out for the Customer. Subject thereto and except where repairs are carried out for a person dealing with a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law. Where the Customer deals as a consumer the statutory rights of the Customer are not affected by these conditions.  
(2) Any time or date given by ABI for carrying out or completing the said repairs shall be an estimate only and ABI shall not be liable for any failure to complete the said repairs within the given time or before the given date.  
(3) Except for repairs covered by ABI's Warranty (which shall be covered by clause 10) the Customer shall pay, within 30 days of the date of ABI's invoice, ABI's charges for carrying out the repairs, plus VAT (if any) thereon at the relevant rate, applicable at the date of invoice. Where ABI carries out for the Customer repairs required as a result of the occurrence of an event which is covered by the Customer's insurance policy in respect of the Goods the availability of insurance cover shall not reduce or extinguish the Customer's liability to ABI in its absolute discretion permit the Customer to defer payment for the repairs until receipt of insurance monies PROVIDED THAT the Customer pays to ABI all insurance monies received in respect of repairs to the Goods effected by ABI immediately on receipt and until such payment holds such monies separate from any monies of the Customer and on trust for ABI. Where insurance monies are less than ABI's charges the Customer shall pay the balance to ABI at the time of payment of the insurance monies.  
(4) These conditions (and in particular clause 11) shall apply to the repairs carried out by ABI as they apply to the sale of Goods.

**4. Order and Specifications**

- (1) No order submitted by the Customer shall be deemed to be accepted by ABI unless and until confirmed in writing by the issue of ABI's order acknowledgement.  
(2) The customer shall be responsible to ABI for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer and for giving ABI any necessary information relating to the Goods within a sufficient time to enable ABI to perform its obligations in accordance with the terms of the contract.  
(3) The quantity, quality and description of and any specification for the Goods shall be those set out in ABI's quotation (if accepted by the Customer) or the Customer's order (if accepted by ABI).  
(4) ABI reserves the right:-  
(a) at any time prior to the date of delivery to withdraw any model of, or to alter specification of, any Goods and at ABI's option to cancel any order or to supply to the Customer in respect thereof any substitute or altered model, or  
(b) to make any requisite changes to the specification of the Goods to enable the Goods to conform to any applicable safety or other statutory requirements, or  
(c) where the Goods are to be supplied to ABI's specification, to modify such specification PROVIDED THAT such changes shall not materially affect the quality or performance of the Goods.

**5. Price**

- (1) The price of the Goods shall be ABI's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price shown in ABI's invoice in respect of the Goods. All prices quoted are valid until the date specified in the quotation or, where no date is specified, 30 days from the date of the quotation, after which date they may be altered by ABI without giving notice to the Customer.  
(2) Except as otherwise stated under the terms of any quotation and unless otherwise agreed in writing between the Customer and ABI, all prices are given by ABI on an ex works basis. Where ABI agrees to deliver the Goods otherwise than at ABI's premises, ABI shall charge the Customer in its absolute discretion for the cost of delivery and the Customer shall be liable to pay charges imposed by ABI for delivery including (but without limitation) transport, packaging and insurance.  
(3) Unless otherwise stated, the price of Goods is exclusive of any applicable VAT (which the customer shall have an obligation to pay in addition to the price at the relevant rate applicable at the date of invoice) and of any other tax imposed from time to time on the sale or importation of goods and of any other duties, imposts or levies imposed from time to time.

**6. Terms of Payment**

- (1) Subject to any special terms agreed in writing between the Customer and ABI, the Customer shall pay for the Goods in advance of collection or delivery. ABI shall be entitled to invoice the Customer for the price of Goods as soon as the Goods are available for collection or delivery.  
(2) Where ABI agrees in writing that the Customer need not pay for the Goods in advance the Customer shall pay the price of the Goods on or before the last day following the month of ABI's invoice, notwithstanding that delivery may not have taken place and the property in the Goods shall not be transferred to the Customer until the time of payment of the price shall be of the essence of the contract. Receipts for payment will be issued only upon request.  
(3) The Customer shall pay to ABI the total amount due to ABI from time to time and shall not be entitled to set off against such amount any sums due from ABI to the Customer or any claim the Customer may have or purported to have against ABI.  
(4) If the Customer fails to make any payment on the due date or the Customer cancels the order for the Goods then, without prejudice to any other right or remedy available to ABI, ABI shall be entitled to:  
(a) cancel the contract or suspend any further deliveries to the Customer; and/or  
(b) disallow discounts where previous invoices have not been settled and also charge interest at the rate of 2% per month on all sums outstanding on any account which is not paid in full by the due date; and/or  
(c) appropriate any payment made by the Customer to such of the Goods (or the Goods supplied under any other contract between the Customer and ABI) as ABI may think fit; and/or  
(d) the full sum due from the Customer for the order for the Goods such sum being payable to ABI 7 days from the due date or date of cancellation by the Customer.

**7. Delivery**

- (1) Delivery of the Goods shall be made by the Customer collecting the Goods at ABI's premises within 14 days after ABI has notified the Customer that the Goods are available for collection or, if some other place for delivery is agreed by ABI, by ABI delivering the Goods to that place at the Customer's expense.  
(2) Where the contract or order provides for delivery to the Customer by ABI only and ABI shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless ABI has previously agreed in writing that time should be of the essence. The Goods may be delivered by ABI in advance of the quoted delivery date upon giving reasonable notice to the Customer.  
(3) Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by ABI to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the contract as a whole as repudiated.  
(4) If the Customer fails to take or accept delivery of the Goods or fails to give ABI adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of ABI's fault) then, without prejudice to any other right or remedy available to ABI, ABI may at its sole discretion:  
(a) store the Goods until actual delivery and charge the Customer for the costs reasonably incurred by ABI as a result of the Customer's failure to accept delivery including the costs of delivery, storage and insurance; or  
(b) give notice in writing to the Customer requiring it to take delivery of the Goods or give adequate delivery instructions within seven days from the date of ABI's notice. If the Customer fails to take delivery or give adequate delivery instructions as aforesaid the Customer shall be deemed to have repudiated the contract. ABI shall be discharged from any further obligation to deliver and ABI may sell the Goods and (after taking into account all costs reasonably incurred by ABI as a result of the Customer's failure to accept delivery including the costs of delivery storage and insurance and selling expenses) invoice the Customer for any shortfall below the price under the Contract. The Customer shall pay for any shortfall (plus any VAT thereon) to ABI within thirty days of the date of ABI's invoice.  
(5) Where ABI agrees to deliver the Goods to a place nominated by the Customer, delivery shall be made on the terms of this clause and of the Road Haulage Association Limited Conditions of Carriage as amended by the Association's Special Conditions for Carriage or Towing of Caravans and Mobile Units, in each case in the form published by the Association at the date of delivery. In the case of any inconsistency between the terms of these conditions and the conditions of the Road Haulage Association Limited referred to above the terms of these conditions will prevail.

**8. Risk and Property**

- (1) Risk of damage to or loss of the Goods shall pass to the Customer:  
(a) in the case of Goods to be delivered at ABI's premises, at the time when ABI notifies the Customer that the Goods are available for collection, or  
(b) in the case of Goods to be delivered otherwise than at ABI's premises, at the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, at the time when ABI has notified the Customer of the availability of the Goods.  
(2) Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these conditions, the Goods shall remain the absolute property of ABI until ABI has received in cash or cleared funds payment in full of the price of the Goods plus any delivery charges due in respect thereof any VAT and other tax or duty and all other sums whatsoever which are then due from the Customer to ABI.  
(3) Until such time as the property in the Goods passes to the Customer, the Customer shall hold the Goods as ABI's fiduciary agent and bailee, and shall keep the goods separate from those of the Customer and third parties and properly stored, protected and insured and identified as ABI property. Subject to these conditions the Customer is licensed by ABI to agree to sell the Goods subject to the express condition that such agreement to sell shall take place as agent and bailee for ABI wherever the Customer sells on his own account or not and that the entire process of sale whether tangible or intangible including insurance proceeds, are held in trust for ABI and are kept separate from any monies or property of the Customer and third parties and are at all times identifiable as ABI's money or property and, in the case of tangible proceeds, are properly stored, protected and insured.  
(4) Where such time has not passed, the Customer shall be entitled at any time to require the Customer to deliver up the Goods to ABI and, if the Customer fails to do so forthwith, to enter upon any premises of the Customer or any third party where the Goods are stored and repossess the Goods and the Customer hereby grants to ABI its servants or agents an irrevocable licence to enter such premises.

**9. Product Liability**

- (1) Any advertisement, information or labelling ("the Literature") supplied by ABI relating to the Goods, has been prepared to comply with statutory regulations relating to the Goods and with a view to providing information for consumers as to the physical characteristics of the Goods and precautions to be taken with regard to their use. The Customer undertakes to ABI-

- (a) only to use in relation to the Goods Literature supplied or approved by ABI;  
(b) not to remove from the Goods prior to re-sale any Literature attached to the Goods by ABI;  
(c) to supply with the Goods on re-sale any Literature supplied by ABI  
(d) not to make any statement, representation or claim or give any warranty to any person in respect of the Goods save as in ABI's Literature or in any form specifically authorised in writing by ABI.  
(2) The Customer indemnifies ABI against all loss, damage, costs and expenses awarded against or incurred by ABI in connection with any claim, or paid or agreed to be paid by ABI in settlement of any claim, that the Goods are defective, to the extent that they are awarded or incurred as a result of the Customer's failure to comply with its obligations under this clause.  
(3) Where the Goods are manufactured or altered or any process is applied to the Goods by ABI in accordance with a specification submitted by the Customer, the Customer shall indemnify ABI against all loss, damages, costs and expenses awarded against or incurred by ABI in connection with or paid or agreed to be paid by ABI in settlement of any claim.  
(a) that the Goods are defective or do not conform to any applicable safety or other statutory requirement, and  
(b) infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from ABI's use of the Customer's specification.

**10. ABI's Warranty**

- (1) Goods supplied by ABI to the Customer for resale are supplied with the benefit of ABI's Warranty.  
(2) The Customer shall not rely on any of the Goods with the benefit of ABI's Warranty unless the Customer has carried out (as required by ABI) the pre-delivery inspection and any work shown by that inspection to be necessary.  
(3) The Customer shall deal promptly with all warranty claims and shall use best endeavours to ensure that the consumer is satisfied with the service provided. Where possible the Customer shall provide replacement parts of stock.  
(4) ABI shall reimburse to the Customer ABI's then prevailing rates for any repair work required to the Goods during the period of ABI's Warranty which is authorised by ABI and performed by the Customer PROVIDED THAT ABI shall not be required to reimburse the Customer for any costs which in the reasonable opinion of ABI were incurred by the Customer as a result of:  
(a) the failure by the Customer to carry out to the standard required by ABI the pre-delivery inspection and all necessary work;  
(b) willful damage or negligence or failure by the Customer to provide appropriate and secure storage conditions for the Goods or to follow ABI's instructions (whether oral or in writing) or misuse or alteration or repair of the Goods without ABI's approval;  
(c) the failure of the Customer to follow ABI's standard procedures for warranty claims.  
(5) Where in the reasonable opinion of ABI the Customer is in breach of its obligations under this clause 10 ABI shall be entitled to carry out the repairs to the Goods at the Customer's expense. The Customer shall be liable to pay to ABI the cost of any sums due from ABI to the Customer the cost of any work required as a result of the factors set out in clause 10(4) above together with value added tax thereon at the appropriate rate. The Customer shall pay to ABI any sums due pursuant to this claim within 14 days of invoice.

**11. Warranty to the Customer and Liability**

- (1) Subject to clause 4(4), ABI warrants to the Customer that the Goods which they correspond with their specification at the time of delivery to the Customer.  
(2) Subject as expressly provided in these conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.  
(3) Any claim by the Customer which is based on any defect in the quality or condition of the Goods (or any of them) or in the capability of any of them shall be notified to ABI within 3 days from the date of delivery of the Goods or the repaired goods (as the case may be), or where the defect is not apparent on reasonable inspection, within a reasonable time after discovery thereof. If the Customer does not notify ABI accordingly, ABI shall have no liability for such defect and the Customer shall be bound to pay the price. For the purposes of this clause, the Goods or repaired goods (as the case may be) the subject of any claims shall be referred to as "the Relevant Goods".  
(4) Where any claim is notified to ABI in accordance with these conditions and is accepted, ABI shall be entitled to replace the Relevant Goods or to repair them (or both) or to repair or correct any defect in the Relevant Goods free of charge or at ABI's sole discretion (and if already paid) refund to the Customer the price of the Relevant Goods or a proportionate part thereof (in the case of any claim relating to repairs the charges paid by the Customer to ABI for the repairs but ABI shall have no further liability to the Customer. The Customer shall not be entitled to set off against any sums due to ABI the value of any claim the Customer may have or purported to have against ABI.  
(5) Except in respect of death or personal injury caused by ABI's negligence ABI shall not be liable to the Customer by reason of any representation or any implied warranty (other than for the purpose of amalgamation or reconstruction) or under the express terms of the contract for any consequential loss or damage (whether for loss or profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by negligence of ABI, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Customer or the repair of any goods by ABI, except as expressly provided in these conditions.  
(6) ABI shall not be liable to the Customer or be deemed to be in breach of the contract by reason of any delay in performing, or any representation or any implied warranty (other than for the purpose of amalgamation or reconstruction) or under the express terms of the contract for any consequential loss or damage (whether for loss or profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by negligence of ABI, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Customer or the repair of any goods by ABI, except as expressly provided in these conditions.  
(7) Where the Customer deals as a consumer (within the meaning of the Unfair Contract Terms Act 1977) the Statutory rights of the Consumer are not affected by these conditions.

**12. Insolvency of Customer**

- (1) This clause applies if:-  
(a) the Customer is in receipt of a statutory demand under the Insolvency Act 1988 or makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction), or  
(b) an encumbrancer takes possession, or a receiver is appointed, or any of the property or assets of the Customer, or  
(c) the Customer ceases, or threatens to cease to carry on business, or  
(d) ABI reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.  
(2) If this clause applies then:-  
(a) the Customer shall immediately give notice in writing to ABI that an event specified in clause 12(1) has occurred, identifying the relevant event and giving as much information as possible to ABI and shall provide any further information ABI may require;  
(b) without prejudice to any other right or remedy available to ABI, ABI shall be entitled to cancel the contract or suspend any further deliveries under contract without liability to the Customer;  
(c) if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement between the parties; and  
(d) ABI may exercise its rights under clause 14(2) with immediate effect.

**13. Export Terms**

- (1) In these conditions "Incoterms" means international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the contract is made. Unless the context otherwise requires any terms or expression which is defined in or by a particular meaning by the provision of Incoterms shall have the same meaning in these conditions, but if there is any conflict between the provisions of Incoterms and these conditions, the latter shall prevail.  
(2) 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 Customer and ABI) apply notwithstanding any other provision of these conditions.  
(3) Where the Goods are supplied for export from the United Kingdom the price is exclusive of any applicable value added tax and of any other tax imposed from time to time from the sale or importation in or to the country of destination and of any other duties, imposts or levies imposed from time to time on the importation of the Goods into the country of destination and of any regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon.  
(4) By accepting delivery of the Goods the Customer shall be deemed to have accepted the Goods. The Customer shall be responsible for ensuring that the Goods are fit for the purpose for which and the country in which the Customer intends them to be used.  
(5) Subject to any special terms agreed in writing between the Customer and ABI the Customer shall pay for the Goods in advance of collection or delivery. ABI shall be entitled to invoice the Customer for the price of Goods as soon as the Goods are available for the Goods by bill of exchange or irrevocable letter of credit or otherwise as ABI may require and to provide to ABI a bank guarantee or such other security as ABI may require.

**14. Assignment of Third Party debts**

- (1) This clause applies if (notwithstanding the provisions of clause 8):  
(a) any sum due to ABI has been delivered to the Customer and subsequently sold by the Customer to a third party purchaser ("Third Party"); and  
(b) the Customer has not paid ABI in full for those Goods in accordance with these conditions; and  
(c) the Third Party has not paid the Customer in full for those Goods; and  
(d) the Customer either:  
(i) fails to make any payment to ABI on the due date; or  
(ii) fails to make any payment to ABI on the due date or, if ABI reasonably believes the Customer is or is reasonably likely to become subject to one of the events identified in clause 12(1).  
(2) If this clause applies, then (without prejudice to any other right or remedy available to ABI):  
(a) the Customer will provide to ABI any information reasonably requested by ABI in respect of the Third Party and/or debt; and  
(b) the Customer agrees to assign and shall upon request deliver to ABI an assignment (in writing, signed by the Customer, and in such form as ABI reasonably requires) of the debt owed to the Customer by the Third Party in respect of the relevant Goods (and where the Goods have been sold along with other goods or services, the assignment shall be in respect of the full amount of the invoice); and  
(c) ABI may notify the Third Party that all payments due to the Customer in respect of the relevant debt should be paid to ABI, and at the request of ABI the Customer will sign and deliver to ABI any letter from the Customer to the Third Party requiring them to pay the sums owed by the Third Party to the Customer, to ABI.  
(3) Where this clause applies:  
(a) ABI shall be entitled to take all appropriate actions to recover the sums owed by the Third Party and assigned to ABI under this clause;  
(b) if the Third Party makes any payment to the Customer (notwithstanding the operation of this clause), then, for the avoidance of doubt, those sums shall be held on trust by the Customer for ABI in accordance with clause 8); and  
(c) if ABI recovers from the Third Party any amounts in excess of the sums owed by the Customer to ABI in respect of the relevant Goods, ABI will promptly pay such excess sums to the Customer.

**15. General**

- (1) The relationship between the parties shall be that of buyer and seller, and nothing in this contract shall create or be deemed to create a partnership between the parties or make the Customer the agent of ABI for any other purpose other than that of fiduciary agent of ABI for the receipt and payment of monies in accordance with clause 8.  
(2) ABI shall be entitled to perform any of the obligations undertaken by it and to exercise any of the rights granted to it under this contract through or by its servants or agents.  
(3) ABI shall have a general lien on all goods of the Customer in ABI's possession for all sums due from the Customer (including interest) in respect of any other goods sold and delivered to the Customer or work undertaken for the Customer by ABI under the same or any other contract.  
(4) Any notice required or permitted to be given by either party to the other under these conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified in writing to the other party in accordance with clause 4.  
(5) No waiver by ABI of any breach of the contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.  
(6) If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected thereby. At its own expense, each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to this Contract.  
(8) The Contract shall be governed by the laws of England and shall be subject to the exclusive jurisdiction of the English Courts.