

Standard Conditions of Sale of Goods and Contract Engineering

Part 1: Standard Conditions of Sale of Goods

Zoytek Ltd of Great Bow Wharf, Bow Street, Langport, Somerset, TA10 9PN, registered in England, number 13220880 (the "Company"), submits all quotations and price lists and accepts all orders subject to the following conditions of contract which apply to all contracts for goods supplied to the exclusion of all other representations, conditions or warranties, express or implied.

The Company reserves the right to refuse to accept any contract that is deemed to be contrary to the Company's policies in force at the time.

Business customers: all brochures, catalogues and other promotional materials are to be treated as illustrative only. Their contents form no part of any contract between us and you should not rely on them in entering into any contract with us.

Business customers: any notice by either of us which is to be served under these terms may be served by leaving it at or by delivering it to (by "signed for" or "registered" post or by fax) the other's registered office or principal place of business. All such notices must be signed.

PRICING

All prices shown on the Company's price list, or on quotations offered by them, are based upon the acceptance of these conditions. Any variation of these conditions requested by the buyer could result in changes in the offered pricing or refusal to supply.

All quoted pricing is in Pounds Sterling or in Euro as specified on the price list or quotation is inclusive of VAT. Insurance and Delivery is quoted separately depending on the order. In addition to the invoiced value the buyer is liable for all import duty as may be applicable in the buyer's location. If there is any documentation required for import formalities, whether or not for the purposes of duty assessment, the buyer shall make this clear at the time of order.

We reserve the right to make adjustments to the price to take account of any increase in, or the imposition of, any taxes or duties, or if due to an error or omission the price published for the goods on our website is wrong. We will inform you of the correct price and give you an opportunity to cancel the order. If the goods have already been delivered, we will give you an opportunity to return the goods and receive a full refund of the price and any delivery charges you have paid for the goods. Any quotation issued by the Company is open for acceptance for a period of 90 days or as stated after its issue, and if not accepted within the said period shall be deemed to have lapsed unless the Company at its sole discretion elects to extend such period.

PAYMENT

All goods, materials and documents supplied under the contract remain the property of the Company until full payment is received by the Company.

Any charges incurred in making the payment, either currency conversion or otherwise shall be paid by the buyer.

Business customers: If you have an approved credit account, payment is due no later than 30 days after the date of our invoice unless otherwise agreed in writing.

Business Customers: you do not have the right to set off any money you may claim from us against anything you may owe us.

If you fail to pay us in full on the due date we may:

1. suspend or cancel future deliveries;
2. cancel any discount offered to you;
3. charge you interest at the rate set under s.6 of the Late Payment of Commercial Debts (Interest) Act 1998 (currently 8% above the Reference Rate);

1. calculated (on a daily basis) from the date of our invoice until payment;
2. compounded on the first day of each month; and
3. before and after any judgment (unless a court orders otherwise);

4. claim fixed sum compensation from you under s.5A of that Act to cover our credit control overhead costs; and
5. recover the cost of taking legal action to make you pay.

If any part of an invoice is disputed or queried by the Client, the payment of the remainder of the invoice shall not be delayed.

DELIVERY

Delivery shall be made by the company using a courier service of its choice. The cost of the delivery plus a nominal fee for administration will be added to the invoice issued. If multiple shipments are requested by the buyer, multiple delivery charges will be made. In the case of multiple deliveries separate invoices will be raised.

If requested at the time of ordering an alternative delivery service can be used, but only if account details are supplied to the Company so that the delivery can be invoiced directly to the buyer by the delivery service. An administrative charge may be added to the invoice issued at the discretion of the Company.

We will endeavour to deliver goods within the times stated, but goods are subject to availability and delay in delivery of goods is sometimes outside of our control. Any dates we specify for the delivery of the goods are approximate only and we shall not be liable for any losses, costs, damages, charges or expenses caused by any delay for delivery of the goods unless caused by our negligence.

If we fail to deliver within a reasonable time, you may (by informing us in writing) cancel the contract, however:

1. you may not cancel if we receive your notice after the goods have been dispatched; and
2. if you cancel the contract, you can have no further claim against us under that contract.

The terms in clause CANCELLATION will then apply.

TECHNICAL SUPPORT

The company offers technical support in the first instance by email to support@zoytek.co.uk. Technical support will be given free of charge for 12 months from the date of invoice, for queries regarding the use of the products in the system configuration for which they were sold. Features not documented in the user manual or a written offer of the company will not be supported. Interfacing with other products other than those that are preapproved by the company as compatible will not be supported. If the development tools and system hardware is demonstrably working, we cannot be expected to provide support with application level problems, except under separate contract.

WARRANTY

The company offers as part of a purchase contract 12 months warranty against parts and defective workmanship of hardware elements of a system. The basis of this warranty is that the fault be discussed with the company's technical support staff before any return is made. If it is agreed that a return for repair is necessary then the faulty item and any other component of the system as requested

by those staff shall be returned carriage paid and properly insured to the company.

Faults incurred by abuse of the product (as defined by the company) are not covered by the warranty.

We cannot accept liability in respect of any defect arising from fair wear and tear, abnormal working conditions, failure to follow our instructions, or the alteration or repair of the goods without our approval.

Under no circumstances will the company be liable for any incidental or consequential damage or expense of any kind, including, but not limited to, personal injuries and loss of profits arising in connection with any contract or with the use, abuse, unsafe use or inability to use the company's goods.

The company's maximum liability shall not exceed, and the customer's remedy is limited to, either i) repair or replacement of the defective part or product or at the company's option ii) return of the product and refund of the purchase price, and such remedy shall be the customer's entire and exclusive remedy.

Warranty of software written by the company shall be limited to 90 days warranty that the media is free from defects, and no warranty expressed or implied is given that the computer software will be free from error or will meet the specification requirements of the buyer.

Returns of faulty equipment after the warranty period has expired, shall be accompanied with a purchase order good for 100 pounds sterling to cover retest and fault assessment charges. The company may at its discretion make a quotation for repair of the equipment or declare that the equipment is beyond repair. The customer's liability will not exceed the 100 pounds sterling unless a further purchase order for the repair is issued.

FORCE MAJEURE

If we are unable to perform our obligations to you (or able to perform them only at unreasonable cost) because of circumstances beyond our control, we may cancel or suspend any of our obligations to you, without liability.

Examples of those circumstances include act of God, accident, explosion, war, terrorism, fire, flood, transport delays, strikes and other industrial disputes and difficulty in obtaining supplies.

INTELLECTUAL PROPERTY RIGHTS

The Client agrees to preserve the IPR of the Company at all times, and that no contract for supply of goods involves loss of IPR by the Company unless expressly offered as part of the contract by the Company.

WAIVER AND VARIATIONS

Each order received by the company will be deemed to form a separate contract to which these terms (or any that we may issue to replace them) apply and any waiver or any act of non-

enforcement or variation of these terms or part thereof shall not bind or prejudice the company in relation to any other contract.

Any waiver or variation of these terms is binding in honour only unless:

1. made (or recorded) in writing;
2. signed on behalf of each party; and
3. expressly stating an intention to vary these terms.

Variations or changes in specification requested by the Client will be charged for on terms to be agreed in advance with the Company or otherwise on terms no less advantageous to the Company than in the original contract. The Company shall be entitled at any time in its discretion and without any liability in respect thereof to refuse to agree to any requested variation. The Client agrees to meet the costs of any additional work required to accommodate a variation or change in specification.

SPECIFICATION

The Company reserves the right:

1. to vary the specification or withdraw from offer any of its products without prior warning
1. to correct errors and omissions in the specifications
2. to make any changes in the specifications of our goods that are necessary to ensure they conform to any applicable safety or statutory requirements and
3. to make without notice any minor modifications in our specifications we think necessary or desirable.

Where the goods are supplied for resale, the Client is responsible for the provision of information and instructions relating to the safe use of the goods to the resale customer.

EXPORT TERMS

Where the goods are supplied by us to you by way of export from the United Kingdom this Clause applies (except to the extent that it is inconsistent with any written agreement between us).

The "Incoterms" of the International Chamber of Commerce which are in force at the time when the contract is made apply to exports, but these terms prevail to the extent that there is any inconsistency.

Unless otherwise agreed, the goods are supplied ex works our place of manufacture (Zoytek, Langport). Where the goods are to be sent by us to you by a route including sea transport we are under no obligation to give a notice under section 32(3) of the Sale of Goods Act 1979.

You are responsible for arranging testing and inspection of the goods at our premises before shipment (unless otherwise agreed). We are not liable for any defect in the goods which would be apparent on inspection unless a claim is made before shipment. We are not liable for any damage during transit.

We are not liable for death or personal injury arising from the use of the goods delivered in the territory of another State (within the meaning of s.26 (3) (b) Unfair Contract Terms Act 1977).

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CANCELLATION

You may not cancel the order unless we agree in writing.

If the order is cancelled (for any reason) you are then to pay us for all stock (finished or

unfinished) that we may then hold (or to which we are committed) for the order.

We may suspend or cancel the order, by written notice if:

1. you fail to pay us any money when due (under the order or otherwise);
2. you become insolvent;
3. you fail to honour your obligations under these terms.

DISPUTES AND LAW

All disputes, differences or questions in respect of any matter or thing arising out of the contract shall be referred to an alternative dispute resolution procedure (ADR) recommended by the Centre for Dispute Resolution, London (CEDR).

In the event that either the Company or Client elects not to pursue ADR then the Company and Client submit to the jurisdiction of the courts of England and Wales.

The construction, validity and performance of the contract shall be governed in all respects by the Laws of England and Wales.

SEVERABILITY

If any part of these terms and conditions is found to be illegal, void or unenforceable for any reason, then such clause or section shall be severable from the remaining clauses and sections of these terms and conditions which shall remain in force.

Where contract engineering services are provided by The Company, these Standard Conditions for Contract Engineering apply in addition to Standard Conditions for Sale of Goods.

Part 2: Standard Conditions for Contract Engineering

TRAVELLING EXPENSES

All travelling, subsistence and out of pocket expenses incurred by the Company or its appointed agents in fulfilling the contract will be charged to the Client in addition to the quoted fee, unless expressly included therein.

ADDITIONAL COSTS

Contracts of up to 1 year duration.

The cost to the Client shall (save for the additional expenses referred to in TRAVELLING COSTS) remain fixed in the amount of the quotation issued by the Company to the Client and accepted by the Client, save for any additional costs required to be incurred by the Company in fulfilling the contract which neither the Company nor the Client could have reasonably foreseen at the date of the quotation. Such costs shall be charged as an additional cost to the Client but the Company shall not incur such costs without first informing the Client of the same and obtaining the Client's instructions to incur such costs.

Contracts exceeding 1 year in duration.

In the event of the contract being for a period in excess of one year, the contract shall be reviewed by the parties in the tenth month of each twelve month period of the contract for the purpose of discussing any modifications to the agreed programme and any consequential adjustments to the price payable in respect of the contract. In such review the Company will advise the Client of costs which have changed in that period, and the parties shall discuss adjustments to the price payable in respect of the contract to take account of those changed costs.

Such costs to include but are not limited to:

1. Variations to the programme,
2. Adjustments in the nationally agreed rates of wages and salaries or in the cost of material and transport.
3. Alterations in order regulations and by-laws applicable to the contract.

In the event of the parties being unable to agree on any price adjustments, the Company shall be entitled to terminate the contract by written notice and to recover such costs as are set out in

Clause CANCELLATION below.

CONFIDENTIALITY

The parties and their employees undertake to hold as confidential all disclosures of a technical nature made to them by the other party in the course of setting up or progressing the contract.

From this shall be excluded:

1. Information which is in the public domain.
2. Information which comes into the public domain or is otherwise received by either party in good faith from a third party.
3. Information which either party can reasonably prove was in its possession at the time of the disclosure.
4. Information which is disclosed by order of a court of law.

2006-11-29 Standard Conditions for Contract Engineering 3/55. Information which either party can reasonably prove to have been generated independently, without reference to the disclosing party's confidential information

The Company may refer to the Contract or to the fact that the Client is his/her customer with the prior consent of the Client which shall not be unreasonably withheld.

COMMENCEMENT AND COMPLETION

Unless otherwise agreed the work required under the contract will commence as soon as may be reasonably practicable after acceptance in writing by the Client of the Company's written quotation. At its discretion the Company shall be entitled to subcontract elements of the work to be performed under the contract.

Whilst the Company will use every endeavour to complete the said work required by the date specified in the quotation, time of completion shall not be of the essence of the contract. The Company shall not be liable for any loss to the Client of any nature occasioned by any delay in completion (however caused)

REPORTS

Whilst the Company will maintain contact with the Client throughout the term of the contract, no statement made by any members of the Company's staff or other persons engaged by the Company shall be binding on the Company unless and until it is confirmed in writing by the Company.

NO WARRANTY

While the Company will use every endeavour to achieve the objectives of the contract, it offers no warranty, express or implied, that the conclusions of the project will constitute a complete or partial solution to the problem under investigation, or that any written recommendations will be acceptable to the Client.

All machines, tools and equipment supplied by the Company in connection with the contract are supplied as prototypes for experimental or research purposes only. The Client consequentially accepts that such prototypes are not warranted by the Company as complying with any relevant directives whether to the nature of materials, manufacturing processes or manufacturing standards (including but without limitation consumer protection and product liability legislation and legislation connected with CE conformity markings).

Machines, tools and equipment for production or testing purposes will be supplied by the Company on terms to be agreed between the parties. The Client nevertheless acknowledges that it operates or otherwise uses such machinery, tools or equipment at its own risk and agrees to indemnify the Company for the full cost of replacement or repair thereof and for any consequential losses the Company may suffer as a result of the loss or damage to such machines, tools or equipment howsoever caused.

Should the Company be required to carry out any testing or evaluation in connection with the contract then the Client shall be responsible for informing the Company in writing of any relevant standards, directives and/or legislation (whether UK or EU) and shall indemnify the Company for all losses, expenses or claims of whatever nature arising out of the Client's acts or omission in this regard.