

## **Acute Sales Ltd – Conditions of Business**

### **Section 1 – Conditions of Sale**

### **Section 2 – Conditions of Hire**

### **Section 1 – Conditions of Sale**

#### **1. DEFINITIONS**

In these Conditions of Sale the following expressions shall have the following meanings:

(a) “The Company” shall mean

#### **ACUTE SALES LIMITED or Trading Names of Acute Sales Limited**

(b) “The Purchaser” shall mean the party placing the order with the Company which order is accepted on the form overleaf.

(c) “The Contact” unless otherwise agreed by the Company in writing means the Contract constituted by the written acceptance by the Company of the Purchaser’s order.

(d) “The Products” mean the goods the subject of the Contract.

(e) “Special Type” means Products not included in the Company’s current catalogue.

#### **2. GENERAL**

All contracts for purchases of Products shall be subject to these Conditions of Sale which shall supersede any terms, conditions or representations relating to the Purchase appearing or made in catalogues or otherwise and shall also override any terms or conditions stipulated, incorporated or referred to by the Purchaser whether in the Purchaser’s offer to buy or elsewhere. All guarantees, warranties or conditions whether written or oral or express or implied and not appearing in these Conditions of Sale are excluded and hereby negated, but no such exclusion shall apply to any warranty or condition necessarily imposed by English Law.

#### **3. VALIDITY OF QUOTATIONS AND ACCEPTANCE**

3.1. Unless stated otherwise, a quotation is open for offer by the Purchaser within the period stated therein, or where no such period is stated, within 30 days from the date of such quotation, provided always that it shall not have been withdrawn previously by the Company.

3.2. A Quotation is not an offer capable of acceptance by the Purchaser and all orders placed by the Purchaser are subject to acceptance by the Company. A binding contract will only be created with the Company when the Company has despatched to the Purchaser a written form of Acknowledgement of Order or Official Invoice

#### **4. PRICES**

All prices quoted by the Company are for quantities of the Products specified in the quotation and are not necessarily applicable to different quantities. Unless otherwise indicated by the Company no price quoted by the Company will include the supply of any descriptive literature or instructions (other than one copy in the English language of instructions for the operation of the Equipment) or the services of an engineer on site for the purpose of checking, servicing or commissioning the equipment, or the cost of packing insurance or carriage. Unless otherwise agreed in writing owing to fluctuations in the prices of materials and labour over which we have no control all Orders are accepted for delivery at prices ruling at the date of despatch. Value Added Tax if applicable will be charged in addition to the prices quoted at the rate prevailing at the date of Products are despatched.

## 5. PAYMENT

Unless otherwise agreed in writing the Products (or in the case of the Products being delivered by instalments, each instalment of the Products) shall be paid for in cash upon presentation of shipping documents and invoices in the United Kingdom, or on demand if the Products are put into storage under the provisions of Clause 15 hereof. The Company's prices are nett and are not subject to settlement terms. For Account customers based in the UK a strict payment term of 30 days from date of Invoice will apply.

Payment for training courses - Full Payment or a Valid 'On Account' Order Number is required before any training can commence. A refund is only available 28 days before any training event.

Online payments by Debit/Credit card - We accept payment by CREDIT or DEBIT CARD, CHEQUE or BACS (Bank Transfer). Credit card security - We do not hold your credit card details on our website. All credit card details are processed by our Payment Gateway Company, PayPoint.net. To read more about your credit card security, please visit PayPoint.net.

We do not charge for any item until it is ready to ship. Backordered items are also not charged until they are shipped.

When confirmation of an order is received, this is to indicate that we have received your order. It does not indicate that a contract exists between us. We will indicate acceptance of your order, and hence a contract between us, when we send you an invoice. We have included this term to protect us in the case a mistake has been made in pricing, we have inadvertently under-priced goods, or we are no longer able to supply a particular product for some reason. In the case of a change of price, we will always contact you first to ensure that the price is acceptable.

## 6 TITLE

Full legal and beneficial title in the Products shall remain with the Company and shall only pass to the Purchaser when payment for the Products has been made in full. Until such payment in full has been made: -

- (a) The Purchaser shall hold the Products for the Company in a fiduciary capacity as bailee of the Products and shall return them to the Company forthwith on the Company's request.
- (b) The Purchaser shall store the Products separately from other goods in its possession in such a way as indicate clearly that Products are exclusively owned by the Company
- (c) Any proceeds of sale of the Products shall be paid into a bank account (the Bank Account") separate from other bank accounts held by the Purchaser and the Bank Account shall be designated by a title which indicates clearly that the funds therein are held by the Purchaser as trustee for the Company.

Notwithstanding the foregoing, the products shall in any event be at the Purchaser's risk from delivery to it or to any carrier or agent acting on its behalf.

## 7. DELIVERY

Unless otherwise agreed in writing:

- (a) Subject to receipt of clear instructions from the Purchaser, the Company will arrange for transport of the Products to the Purchaser's place of business (or such other premises as the Purchaser may request and the Company may agree in writing) and will insure the Products while in transit.
- (b) All charges for transport, for special packaging and for insurance in transit are payable by the Purchaser in addition to the quoted price.
- (c) For the purpose of this Clause the Carrier shall be deemed to be the agent of the Purchaser.
- (d) The Company reserves the right to make delivery of the Products by instalments and to tender for separate invoice in respect of each instalment. Payment for such instalment shall be made in accordance with Condition 5 hereof or as otherwise agreed in writing.

## **8. LIABILITY FOR DELAY**

Any times quoted for despatch, repair or replacement of the Products are to be treated as estimates only and the Company shall not be liable for failure to despatch, repair or replace the Products within such times unless the Purchaser has suffered loss thereby, and the amount payable in respect thereof shall have been agreed in writing as liquidated damages, in which case the Company's liability shall be limited to the amount so agreed to be paid. In all cases where a time for despatch, repair or replacement is quoted or not, the time for despatch, repair or replacement shall be extended until delivery can reasonably be made if delay in despatch, repair or replacement is caused by instructions or lack of instructions from the Purchaser or by industrial dispute or by any other cause whatsoever beyond the Company's reasonable control.

## **9. DEFAULT**

The Company shall have the right to discontinue delivery and also at its discretion, to terminate the contract in respect of any undelivered Products if the Purchaser is in breach of Condition 5 hereof, without itself incurring any liability for breach of contract.

## **10. DEFECTS AFTER DELIVERY**

- (a) The Company will, by repair or replacement at its option, make good all defects which under proper use appear in the Products within a period of 12 months from the date of delivery to the Purchaser and arise solely from faulty design, materials and/or workmanship, provided the Purchaser first returns the alleged defective product(s) to the Company carriage paid.
- (b) In respect of parts or components not of the Company's manufacture, the Company will give the Purchaser a guarantee equivalent to the guarantee (if any) which the Company may have received from the supplier of such parts or components in respect thereof, but not so as to impose on the company in respect of such parts or components a liability greater than that imposed on it by Sub-Clause (a) hereof.
- (c) Save as aforesaid and as provided in Condition 8 hereof the Company shall not be under any liability in respect of defects in Products delivered or damage or loss resulting from such defects or from any work done in connection therewith, save for death or personal injury caused by the Company's proven negligence, or where liability is otherwise prohibited from exclusion by statute.

## **11. REPAIRS**

- (a) In the event that Products are returned by the Purchaser to the Company for the purpose of carrying out repairs or servicing, then subject to sub-clause (b) hereof and to Clause 6 the risk and the property in the Product shall remain in the Purchaser.
- (b) In the event that Products are returned for the purposes described in sub clause (a) hereof, and the Company, having first carried out the repair or servicing has given the Purchaser notice in writing that the Products are ready for collection, then upon the expiry of six months from the date of such notice the property in the Products shall be deemed to pass to the Company, which shall be entitled to deal with the Products as it sees fit.

## **12. SPECIAL ORDERS**

Terms relating to orders for Special Types shall be the subject of negotiation. Orders relating to Items manufactured to a specific specification or design cannot be cancelled and must be paid for in full to the terms set out in paragraph 5

## **13. RETURN OF THE PRODUCTS**

In no circumstances may Products be returned without the written consent of the Company. Where the Company has agreed to the return of such Products a handling charge will be deducted by the Company from any credit allowed to the Purchaser where the reason for such return is not an error on the part of the Company or is governed by Clause 10 hereof.

## 14. DESCRIPTIVE MATTER AND ILLUSTRATIONS

- (a) The Company's drawings descriptive matter, weights, dimensions and shipping specifications are approximate only, unless specifically guaranteed and in any event the Company shall be entitled to make minor modifications in detail to the Contract descriptions of the goods. The Company shall not be liable for failure to attain performance figures stated in the Contract unless these have been guaranteed within a specific margin or tolerance. If any figure so guaranteed is not attained on test in the manner (if any) required by the Contract. The Company shall be afforded a proper opportunity to rectify the failure and if the Company fails to do so the Purchaser may either reject or accept the relevant part of the Products but shall not be entitled to any damages unless an agreed reduction in the price is specified in the Contract, in which case there shall be no right of rejection.
- (b) Except where the Company expressly and in writing enters into an undertaking as to fitness, the Purchaser assumes responsibility for the sufficiency and suitability for his purpose of the Products he orders.
- (c) Nothing contained in any catalogue, price list or other advertising matter shall be interpreted as an offer to sell.

## 15. TESTS AND INSPECTIONS

If special tests in the presence of the Purchaser or his representative are required, these shall be charged for and in the event of any delay on the Purchaser's part in attending such tests shall proceed in his absence and shall be deemed to be made as if in his presence.

## 16. STORAGE (APPLICABLE TO EXPORT ORDERS)

If the Company does not receive Forwarding instructions sufficient to enable the Company to despatch the Products within 30 days after the date of notification that they are ready, the Company shall be entitled to arrange storage on the Purchaser's behalf and all charges for storage, insurance and demurrage shall be charged to the Purchaser. Payments for the Products so stored shall be made as if delivery has been effected.

## 17. FORCE MAJEURE

- (a) Should delivery of all or any of the Products sold or agreed to be sold be prevented or delayed by happenings or occurrences due to "force majeure" (including but without limitation, strikes, lockouts or other labour troubles, war, insurrection, riot, civil commotion, fire, accident to or breakdown of machinery, delay in delivery of goods or materials by suppliers or other persons, government action and Act of God) or any cause whatsoever beyond the Company's reasonable control, the Company reserves the right to cancel or suspend deliveries without prejudice to its rights to payment for any Products already delivered.
- (b) In any event in Company shall not be liable in any way for loss or damage including consequential loss or damage arising directly or indirectly as a consequence of such events or happenings as are particularised in paragraph (s) of this Clause.

## 18. LEGAL CONSTRUCTION

The Contract and these Conditions shall be subject to, and construed in accordance with English Law.

United Kingdom buyers please note: -

Invoices will be zero-rated for VAT purposes on the understanding that you will supply satisfactory written evidence of shipment within 30 days of exportation. We reserve the right to debit you with any costs and charges including any liability for VAT in respect of the transaction which may be incurred by us as a result of your failure to provide such evidence.

We acknowledge with thanks your order as detailed.

Please inform us if your requirements have not been interpreted correctly.

To avoid delays please use our Sales Order / Invoice Numbers in all communications.

**IMPORTANT NOTICE.** Unless examined, goods should be signed for as "Unexamined". The Company can only accept responsibility for loss or damage provided that: (1) The Carriers and Ourselves are notified within 3 days and packing retained for the Carrier's examination. (2) You confirm to us in writing, within 7 days, quoting reference number of this form (3) In the event of non-receipt of a whole consignment, the Carriers and Ourselves are notified within 21 days.

## **Section 2 – Conditions of Hire**

### **1. GENERAL**

The following terms and conditions constitute the entire agreement between (the Hirer) and Acute Sales Ltd (the Owners) for the hire of certain equipment. Unless otherwise agreed in writing by the Owners, these terms and conditions will apply to all transactions between the Hirer and the Owners to the exclusion of any terms and conditions put forward.

### **2. HIRE CHARGES**

The hire charges shall be agreed at the commencement of the hire and shall be invoiced in advance. Rental periods of more than four weeks shall be invoiced monthly in advance. The term of the hire shall be for a minimum period of one week unless otherwise agreed in writing and shall continue to be charged thereafter for COMPLETE weeks. Weekly Rental Periods - the hire charges will be based on full weeks. A week is taken to be seven consecutive days (including Bank Holidays), including the day the hire commences. At any time during the hire the Owners reserve the right to alter rental charges, delivery and collection charges.

### **3. COMMENCEMENT AND TERMINATION OF HIRE**

#### **Commencement of Hire**

The hire period shall commence on the day the equipment is either collected by the Hirer from the Owners' premises or, for deliveries within the European Union, delivered to the site advised by the Hirer. For deliveries outside the European Union the hire period shall be deemed to commence the day after the equipment is dispatched from the Owners' premises.

#### **Termination of Hire**

The equipment will not automatically be collected by the Owners at the end of the initial period of hire, unless specifically requested in writing on the initial order. It is the Hirer's sole responsibility to inform the Owners of their intention to terminate the hire prior to the expiry of the hire period and to arrange the return of the equipment at the Hirer's cost. The Owners reserve the right to charge the Hirer for any further rental periods if the Hirer fails to notify the Owners of its intention to terminate the hire. For hires of equipment within the European Union where the equipment is to be collected by the Owner or its appointed agent, the Hirer shall contact the Owner no later than 4.00pm (UK time) on the day before the equipment is to be made available for collection. The period of hire shall be deemed to end on the day preceding the first working day that the equipment is made available for collection. For hires of equipment outside the European Union, and in all other circumstances, the period of hire shall end when the equipment is returned to the Owners' premises. It is the Hirer's sole responsibility to ensure that the equipment is properly packaged for transportation before the equipment is made available for collection. Where the equipment is to be collected by the Owners or their appointed agents, it is the Hirer's responsibility to ensure that the equipment is made available for collection at the time agreed. If the equipment is not made available for collection at the agreed time or not packaged suitably, the Owners reserve the right to charge the costs of the failed collection to the Hirer. Where the Hirer has agreed to purchase the equipment, the hire will be deemed to terminate when the Hirer has paid the Owners for the equipment in full. Without prejudice to any other rights under these conditions and in particular to the Hirer's responsibility to inform the Owners of the Hirer's intention to terminate the hire, the Owners may terminate the hire of the equipment at any time by giving the Hirer seven days notice in writing.

### **4. DELIVERY AND COLLECTION**

In addition to the hire charge, separate charges will be made for delivery and collection of the equipment. Details of the Owners' standard scale of transport charges are available on the owners website or upon request. All packaging materials are chargeable if not returned or returned damaged at termination of the hire.

### **5. ACCEPTANCE CONDITIONS**

Acceptance of delivery of the equipment by the Hirer or its appointed agent will be conclusive evidence that the said equipment has been examined and found to be complete in accordance with the manufacturer's description, in good order and condition, fit for any purpose for which it may be required and in every way satisfactory. Any problems or apparent problems caused by damage in transit should be reported to the Owners within 24 Hrs of delivery.

## 6. INDEMNITIES

Any claim for damages by the Hirer against the Owners arising out of the Hirer's use of the equipment shall, subject to the Owners admitting liability or being found liable for such damages, be limited in amount to the total amount of the rental payments paid by the Hirer for the equipment to the Owners as at the date of the Owners receiving notification of any such claim. The Hirer shall be solely responsible for and hold the Owners fully indemnified against any loss or damage (excluding death or personal injury) to the equipment and any loss of profit, cost or expenses and any loss or damage (excluding death or personal injury) to any property arising in connection with any of the said equipment or as a result of the use thereof. The Owners shall not be liable for any loss other than death and personal injury which may arise out of or in connection with the failure of the said equipment for whatever reason. Save as provided by Law, the Owners exclude all warranties relating to the equipment and the Hirer's use thereof except as specifically stated herein.

## 7. HIRER'S OBLIGATIONS

The Hirer agrees with the Owners during the continuance of the contract of hire as follows:

- (a) To keep the equipment at the delivery address and in the Hirer's own possession unless otherwise agreed in writing by the Owners.
- (b) Not to allow the said equipment to be transferred to any country prohibited by the Department of Trade and Industry or the Bureau of Export Administration.
- (c) To permit the Owners or their authorised representatives at all reasonable times to enter upon the premises or vessel where the equipment may from time to time be kept to inspect, maintain, repair and test the same.
- (d) To repay to the Owners on demand all costs, charges and expenses incurred in any way by reason of any breach of these terms and conditions by the Hirer including, but not by way of limitation, all costs, charges and expenses incurred in ascertaining the whereabouts of the equipment or recovering possession of the equipment from the Hirer or other person and any consequential loss and/or costs suffered by the Owners as a result of the failure of the Hirer to return the equipment in accordance with these terms and conditions.
- (e) To keep the equipment in good condition and not subject to any misuse or wear and tear over and above that consistent with normal and reasonable use (including but not limited to use conflicting with the equipment manufacturer's recommendations).
- (f) To preserve the Owners' and manufacturer's identification numbers or marks or any nameplates that there should be upon the said equipment.
- (g) For deliveries within the European Union to assume upon receipt of the equipment until returned to the Owners or the Owners' appointed agents the entire risk of loss or damage to the equipment from any occurrence whatsoever.

For deliveries outside the European Union to assume for the duration of the period of hire as set out in these terms and conditions the entire risk of loss or damage to the equipment from any occurrence whatsoever. The Hirer undertakes to arrange at its own expenses appropriate insurance cover with an approved insurance company against all insurable risks and to produce on request to the Owners evidence of such insurance and the payment of premiums thereunder.

- (h) To notify the Owners in writing immediately of any loss or damage to the equipment and on demand to reimburse the Owners in respect thereof within 30 days of the occurrence. The Owners shall continue to charge the Hirer the full cost of hire for the equipment until such payment is received. The Hirer shall be liable for the full replacement cost of the equipment as new.
- (i) To keep the equipment free from distress execution or other legal process and not create or allow to be created any lien over the equipment.
- (j) Not to sell, assign, let on hire or transfer the benefit of hire contract in whole or in part or to part with possession of the said equipment or any part of it at any time during the hire.
- (k) Not to make any alterations, modifications, or adjustments or attempt any repairs to the equipment.
- (l) In the event of any breakdown or alleged defect in the equipment:
  - (1) The Hirer shall give written notice to the Owners within 24 hours (which shall be deemed to be given once received by the Owners) of the discovery of the alleged defect specifying the nature of the defect.
  - (2) The Hirer shall make no further use of the equipment alleged to be defective after the time at which the Hirer discovers that it is defective.

## **8. OWNERS' OBLIGATIONS**

The Owners will maintain the said equipment at no cost to the Hirer and will provide such service at the Owners' premises during normal business hours save that the Hirer will be liable for the cost of any repairs necessary as a result of a breach of clauses 7(k) or 9. In the event of failure of any item of equipment whilst on hire, the Owners shall use reasonable endeavours to supply free of charge an identical or similar item of equipment within 24 hours of notification for UK based equipment, and within 72 hours of notification for equipment within European Union other than the UK. Replacement of equipment at locations other than within European Union may vary subject to shipping times applicable to the delivery destination. Transportation costs as appropriate to that destination may be levied.

## **9. CONDITIONS OF USE**

The Hirer will, in its use of the said equipment, observe all the manufacturer's instructions and other regulations that may be issued for the proper use thereof and shall be entirely responsible for any damage caused to the said equipment through failure to observe such instructions or regulations or failure to use the same in a proper manner. The Hirer will also take all reasonable and practical steps to ensure its use of the said equipment conforms with the terms and conditions laid down in the Health & Safety at Work, etc., Act 1974 (in particular section 2(2)(b) and 2(2)(c) thereof) or any subsequent governing legislation. The Owners make the said equipment available purely for rental purposes and the Hirer has no purchase rights or options, unless previously agreed in writing, regardless of the hire period.

## **10. DELIVERY DATES**

Delivery dates quoted are intended as estimates only although reasonable endeavours will be made to adhere to them. In no circumstances shall the Owners be liable for delay in delivery arising from any cause whatsoever.

## **11. CANCELLATION**

Cancellation, or part cancellation, of any order can only be accepted with the Owners' consent in writing and on terms which indemnify them fully against loss.

## **12. PAYMENT TERMS**

(a) Payment of all charges including hire charges and delivery charges is strictly net within thirty days of the invoice date for account customers, otherwise payment should be made in advance of hire period and secured with credit card details for any extra period of hire incurred. Charges will be made on a weekly basis until return of equipment in good working order.

(b) Payments sent by post are at the risk of the Hirer.

(c) The Owners reserve the right to alter the credit terms at any time when in the Owners' opinion the Hirer's financial condition or previous payment record so warrants.

(d) No payment is deemed to be made until received in the Owners' bank account.

(e) The Hirer shall not be entitled to withhold payment of any amount payable to the Owners because of any disputed claim of the Hirer in respect of faulty equipment or any other alleged breach of this or any other contract between the Hirer and the Owners, nor shall the Hirer be entitled to set off against any amount payable under this contract any monies which are not then presently payable by the Owners or for which the Owners dispute liability.

## **13. OWNERSHIP**

The equipment is and shall remain the sole property of the Owners save that for purposes connected with financing of the said equipment the property in the equipment may be vested in a third party. The consent of the Hirer will not be required for the assignment or transfer of this Agreement or the benefit thereof from or to the Owners to or from any bank leasing company or finance house being the owner of the equipment. The Hirer shall not do or permit or cause to be done anything whereby the rights of the Owners in respect of the equipment are or may be prejudicially affected and the Hirer is not allowed to claim capital allowances on the equipment.

#### **14. DEFAULT**

If the Hirer shall default in making any payment for any period in excess of thirty days or if the Hirer is in breach of these Conditions of Hire, or becomes insolvent or compounds with its creditors or has distress or execution levied upon its property or is wound up or goes into liquidation (except for the purposes of a solvent reconstruction) or has a receiver, administrative receiver or administrator appointed of the whole or any part of its assets or suffers any similar process under the law of its domicile then the Owners shall be entitled to terminate the agreement forthwith and enter upon the Hirer's premises and to remove the equipment without notice to the Hirer. The Owners are hereby indemnified by the Hirer in respect of all and any damage or loss to the Hirer or any third party resulting from the exercise by the Owners of its rights therein reserved. This shall include the Owners recovering all amounts outstanding and payable as a result of such action.

#### **15. LIMITED WARRANTY**

The Owners hereby warrant to the Hirer that at the commencement of the rental period the equipment complies with its Manufacturer's description. The benefit of this warranty may not be assigned by the Hirer to any other party. In no event shall the Owners be liable to the Hirer for any consequential incidental or exemplary damages such as loss of revenues or use of any equipment or down time costs. The Owners shall not be responsible for any delays or failures in delivery of equipment or in making repairs, recalibration or replacement due to unavailability of parts, or labour, or industrial disputes, delays in transportation or other causes beyond its reasonable control. The foregoing warranty shall not apply to any damage to equipment caused by accident, misuse or abuse. The Owners do not warrant the merchantability of the equipment or its fitness or suitability for any particular purpose or use.

#### **16. PERFORMANCE**

Whilst application advice may be given no responsibility is accepted for incorrect results due to circumstances external to the equipment hired.

#### **17. PATENTS AND COPYRIGHTS**

Equipment may be the subject of patent rights and/or legal protection.

#### **18. SOFTWARE**

The following shall apply where software is supplied with the equipment.

(a) The title to all software including programs and documentation furnished by the Owners shall be retained by the original manufacturer.

(b) The Hirer is supplied the use of the software only for the rental term and the software shall be used only on the specific equipment with which it was supplied.

Use of the software shall consist either of copying any portion of the program from storage units or media into the CPU or the processing of DATA with the program or both.

(c) The Hirer may make up to two copies of the Owners' supplied machine readable software for backup and archival purposes.

(d) Subject to the provision of clause 18(c) the Hirer shall not copy or duplicate or permit a third party to copy or duplicate in any manner any physical or magnetic version of the Owners' supplied machine readable software. The Hirer shall not copy or duplicate any printed materials related to any furnished with the Owners' supplied machine readable software.

(e) Upon termination of the hire as defined in clause 3 above, the Hirer shall return to the Owners the original Owners' supplied machine readable software, all copies thereof and all printed material furnished with such software.

(f) The provisions of clause 18(e) shall not apply if the Hirer has purchased user rights from the Owners for the Owners' supplied software and has signed the original manufacturer's software or program licence agreement for said software. In that event the Hirer's rights and obligations upon termination shall be governed by the original manufacturer's software or program licence agreement.

(g) No licences or rights are granted except as set forth herein or in the original manufacturer's software or program licence agreement which the Hirer shall be required to sign on receipt and before using the software. The software may not be assigned by the Hirer without the Owners' prior written consent.



## **19. FORCE MAJEURE**

If either the Owners or the Hirer are rendered unable wholly or in part by Force Majeure to carry out their obligations under this contract the party affected shall give to the other prompt written notice of the Force Majeure with reasonable full particulars concerning it whereupon the obligation of the party giving the notice so far as it is affected by the Force Majeure shall be suspended during but not longer than the continuance of the Force Majeure. The affected party shall use all reasonable diligence to remove the effects of the Force Majeure as quickly as possible. The term Force Majeure as employed in this contract should be deemed to include but shall not be limited to any war, riot, act of God, fire, flood, government regulation or act, any natural or accidental disaster, any strike, lockout or industrial dispute or shortage of raw materials or fuel or any breakdown of machinery or any other cause outside the reasonable control of the party suffering such Force Majeure, but not in any circumstances including financial inability. If a party is rendered unable wholly or in part by Force Majeure substantially to carry out its obligations under this contract for a period of one year or more, then either party may declare the contract to be abandoned forthwith by written notice to the other party to that effect.

## **20. GOVERNMENT PROCUREMENT**

No Government Procurement regulation shall be included hereunder or be binding on either party unless specifically agreed to in writing and expressly incorporated herein.

## **21. DELAY**

The Owners shall not be liable for delays in performance hereunder due to unforeseen circumstances or due to causes beyond its control including but not limited to acts of nature, acts of government, labour disputes, delays in transport and delays in delivery or non delivery by the Owners' suppliers.

## **22. FEES AND EXPENSES**

The Owners shall be entitled to recover from the Hirer all fees and expenses (whether or not formal legal action is instituted) incurred as a result of any breach of these terms by the Hirer or need to enforce same or in any other way arising in connection with these Conditions of Hire.

## **23. DAMAGES**

The remedies provided herein are the Hirer's sole and exclusive remedies. In no event shall the Owners be liable for direct indirect special incidental or consequential damages (including loss of profits) whether based on contract tort or any other course of action.

## **24. AGGREGATE LIABILITY**

The aggregate liability of the Owners (whether in contract or for negligence or breach of statutory duty or otherwise howsoever) to the Hirer for any loss or damage of whatsoever nature and howsoever caused shall be limited to and in no circumstances shall exceed the hire charges paid to the Owners in relation to the equipment.

## **25. EXPORT CONTROL**

Overseas rentals arranged by the Hirer are subject to the terms and conditions listed herein. Attention is drawn to the fact that the Owners bear no responsibility for any charges, fees, or fines, V.A.T. or duty payments imposed by any authority their agents or shipping agent in the UK or overseas. Further it is the obligation of the Hirer to ensure that all overseas import/export duties have been paid to the appropriate authorities and the Hirer is responsible for any fines which may be imposed by any authority on the equipment which has been impounded due to the Hirer's negligence or wilful acts. In addition the Hirer's attention is drawn to the existence of various statutes governing customs regulations in particular the Export of Goods (Control) Order 1994 with regard to equipment which may be subject to security control. Details are available from HMSO Publication Centre, PO Box 276, London, SW8 5DT. Should the Hirer abandon the Owners' equipment anywhere in the United Kingdom, EC or overseas or should the equipment be impounded by any customs authorities in the UK or overseas the rental will continue until the equipment is returned to the Owners' premises or the equipment is purchased by the Hirer at full cost as new.

## **26. MISCELLANEOUS**

(a) If any of these conditions or any part of one of these conditions is rendered void by any legislation to which it is subject it shall be void to that extent and no further.

(b) Any waiver, indulgence or forbearance by either party of any of these Conditions of Hire and/or any breach thereof shall apply only in the particular instant or instances in which such waiver, indulgence or forbearance occurs, and shall not affect or impair the further continuance in force of such terms and conditions, or the right of either party to avail itself of such terms and conditions upon any subsequent breach or breaches thereof.

(c) The exercise or implementation of or reliance upon any of the terms and conditions by the Owners shall not give rise to any right by the Hirer to cancel any contract with the Owners.

(d) If any provisions of these Conditions of Hire are found by a court or other competent authority to be void and unenforceable, such provisions shall be deemed to be deleted from the Conditions of Hire and the remaining provisions shall remain in full force and effect.

## **27. V.A.T.**

All prices quoted are exclusive of V.A.T., which will be charged at the rate in operation at the relevant tax point date.

## **28. NOTICE**

Any notice, demand, statement or other written communication required or permitted to be given to the Hirer by the Owners shall be deemed to have been validly given, delivered or sent by post or left at the address of the Hirer stated in this agreement or at The Hirer's present or last known address.

**Acute Sales Limited, Century Road, High Carr Business Park, Newcastle, Staffordshire, ST5 7UG**  
**Tel: 01782 563030 Fax: 01782 563131 International Tel: + 44 1782 563030 Fax: +44 1782 563131**

**Conditions of Business – November 2014**