

**Terms and Conditions
for the Sale of Goods**

**Associated Power Solutions FZC
P.O. Box 42606, Hamriyah Free Zone
Sharjah, UAE**

1. GENERAL

- 1.1 In these terms and conditions Seller means **Associated Power Solutions FZC**, a company organized and existing under the laws of United Arab Emirates under Hamriyah Free Zone Trade License No 13751, having its registered office at P.O. Box 42606, Hamriyah Free Zone, Sharjah , United Arab Emirates. The person or company to whom these terms and conditions (“T&C”) are addressed shall hereinafter be referred to as the “Buyer”.
- 1.2 These T&C’s shall apply to all deliveries by the Seller. Other conditions shall be binding upon the Seller only if the Seller has acknowledged them in writing. The following conditions shall also apply, if the Seller executes the delivery without knowledge of any Buyer’s conditions which are contrary to these T&C’s or differ from them.
- 1.3 Any amendments to the T&C’s shall be invalid without the Seller’s written confirmation.
- 1.4 These T&C’s shall also apply to all future deliveries to the Buyer, except when agreed otherwise.
- 1.5 Buyer may terminate this Purchase Order at any time, for no reason or for any reason, upon 10 days written notice to Seller. Upon receipt of notice of such termination, Seller will inform Buyer of the extent to which it has completed performance as of the date of the notice, and will collect and deliver to the buyer whatever work has been done. Buyer will pay Seller for all Work performed and accepted through the effective date of the termination, provided that Buyer will not be obligated to pay any more than the payment that would have become due had Seller completed and Buyer had accepted the Work. Buyer will have no further payment obligation in connection with any termination.

2. INFORMATION, DOCUMENTATION

- 2.1 Details of weights and measures, drawings, explanations, descriptions and illustrations contained in the Seller’s brochures or other sales literature shall be approximately authoritative; they shall represent a general description of materials and shall not be construed as part of the offer, unless the corresponding data is expressly included in a definitive agreement entered into the between the Buyer and the Seller.
- 2.2 The Seller reserves the right to modify the technical concept on which the offer is based, provided that this has no adverse effect on the performance and quality of the item offered, the price offered for the goods (the “Price”) or the delivery date.

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- 2.3 The Seller shall retain sole ownership and copyright in respect of all software, drawings and other documentation. The drawings and other documentation may not be made accessible to third parties without the Seller's consent and shall be returned on request.
- 2.4 Any orders placed by the Buyer with the Seller shall only be binding when they are confirmed by the Seller in writing.

3. PRICE

The Price shall be subject to the following terms and conditions:-

- 3.1 The Buyer shall not make any alteration in the Price quoted by the Seller and any purported alteration shall not be binding on the Seller unless and until confirmed in writing to the Buyer as accepted by the Seller.
- 3.2 In the event the value of an item sold is decreased prior to its delivery on account of any damage, the Buyer shall not request the Seller to reduce the Price agreed for between the Parties.
- 3.3 Should there be any increase in the costs of raw materials, labor and overhead expenses that were not taken account of by the Seller in submitting the Price set out in any estimate or any order acknowledgement form signed by the Seller then the Seller reserves the right to increase the Price upon giving written notice of such increase to the Buyer at any time before delivery of goods services to the Buyer.
- 3.4 If the words "Fixed Price" appear in relation to the Price quoted in any estimate signed by the Seller the Price shall remain fixed only for the supply of the goods which form part of the contract ("Contract") for sale of goods entered into between Seller and the Buyer.
- 3.5 If the Seller and the Buyer agree any variation to the Contract whereby additional work is to be undertaken by the Seller then the Seller shall reserve the right (whether or not the estimate or order acknowledgement form contain the words "Fixed Price") to reflect any increase in Price and cost of raw material, labour and overhead expenses that may have taken place since the commencement of the original Contract works in the Price of such additional work.
- 3.6 Any variation by the Buyer in the design, quantification or specification of the work pursuant to the Contract following any instruction by the Buyer shall allow the Seller to increase the Price to reflect any additional costs the Seller may be put to as a result thereof.

4. TERMS OF PAYMENT

- 4.1 Payments shall be made in accordance with the terms of payment set by the Seller; as a rule, payment shall become due immediately, unless otherwise stated. The Seller shall be entitled to invoice the Buyer, at the beginning of the project. If project is to be built and designed, then all deposits which are paid for special parts or machines ordered, will need to be paid in full and they are non refundable. In case the project is ceased for any reason or cancelled or kept on hold, the whole money due before discussion has to be paid in full. In the case of a currency exchange rate deterioration of the amounts paid in a currency not agreed upon between the Parties, the customer shall compensate for the shortfall by additional payment.
- 4.2 As far as Seller's payment claim is jeopardised due to circumstances which cause a substantial deterioration of the Buyer's financial situation, the Seller shall be authorised to declare all payment obligations arising under the business relationship as immediately due and payable; this shall also apply for deferred payments or acceptance of bills of exchange or checks. Under such circumstances, the Seller shall also be entitled to demand advance payments or payment securities for all regular business. The legal remedies available to the Seller for delay in payment shall not be affected by this provision.
- 4.3 The Buyer may only make use of any retention rights or use the right to set off in connection with undisputed or finally adjudicated demands.
- 4.4 Invoicing shall be made in UAE Dirhams. If foreign currency amounts are indicated in the invoices besides the EURO / USD amount, the EURO / USD amount shall govern. Amounts received in foreign currency shall be credited with the proceeds obtained in EURO / USD from them.
- 4.5 The Seller shall have the right to charge interest which shall accrue on a day to day basis on all monies which at any time may be overdue for payment pursuant to the terms of the Contract at the rate of nine (9) % per month.

5. AGREEMENT ON SHIPMENT/DELIVERY

- 5.1 The Seller shall specify the quantity and expected schedule of delivery of goods to the Buyer.
- 5.2 The Seller shall notify the Buyer if shipment, delivery, or any other scheduled date or activity is in jeopardy or default. The Seller's notice shall indicate the cause and extent of the anticipated delay or reason for default.

6. DELIVERY

- 6.1 Unless expressly specified otherwise, agreed delivery periods shall relate to shipment from the Seller's factory or forwarding department. The delivery period shall not commence before the Buyer has fulfilled its obligations to co-operate, in particular by supplying documentation required from it and the agreed advance payments.
- 6.2 Delivery periods shall be extended reasonably if the agreed delivery deadlines cannot be met due to events beyond the Seller's reasonable control, e.g. mobilisation, war, earthquake, flood, fire or other natural disasters, strikes, lock-out, shortage of materials or power, delivery delays on the part of suppliers, national or international import and export restrictions (together known as the "Force Majeure Events").
- 6.3 Should the Seller be unable to fulfil an order for longer than 2 months due to the aforementioned Force Majeure Events, the Seller shall have the right to cancel all or part of the Buyer's order with no resulting entitlement to compensation on the part of the Buyer.

7. RETENTION OF TITLE

Title to and risk of loss or damage to, the products and/or services shall transfer to Buyer at the time Seller delivers and Buyer accepts the products and/or services. In the event it is agreed that delivery of products shall occur upon the products being received by the carriage agent, the Seller's liability shall remain limited to any damage that may be caused to the goods only till such time that the products are delivered to the carriage agent.

8. TRANSFER OF RISK

- 8.1 The risk shall pass to the Buyer upon delivery or, in case of delivery including installation, upon taking into operation or, if so agreed, after successful trial operation.
- 8.2 In cases of delay in shipping or receipt which are caused by Buyer requests or are the Buyer's fault, the risk of accidental damage or loss shall pass to the Buyer on the day of the order being ready for shipment and shall remain with the Buyer for the duration of the delay. The Seller shall, however, be obliged to procure adequate insurance upon demand and at the cost of the Buyer.

9. COMPLAINTS AND NOTIFICATION OF DEFECTS

9.1 Warranty claims of the Buyer are excluded, if the Buyer does not comply with its examination and notification obligations. The buyer shall promptly examine all incoming deliveries from the Seller and shall notify the Seller of all defects promptly after receipt of the goods and/or the discovery of the defect.

Guarantees of the Supplier shall only be deemed to exist if they have been described as such and may unmistakably be recognized as such.

9.2 If a Buyer's defect notification is found to be without merit, the Seller shall be entitled to claim damages from the Buyer to cover costs incurred by Seller due to the unjustified complaint of the Buyer.

9.3 In case the Buyer fails to provide the Seller with a timely notification of a defect, subsequent warranty claims based upon such defect shall be excluded.

9.4 The Buyer shall be responsible for the costs of transportation of the defective goods to the Seller. The repaired or replaced goods shall be shipped to the customer at Seller's costs. When the goods are repaired on the location of operation, then the costs for boarding, lodging and transportation from Buyer's place to the location and back shall be borne by Buyer.

10. WARRANTIES AND GUARANTEES

10.1 The Product Delivered and sold by the Seller to the Buyer shall conform to the specifications that may be attached to the product. Prior to or upon delivery of the product, the Seller shall submit quality certificates to the Buyer.

10.2 Except as expressly set forth herein, there are no warranties or guarantees, express or implied, with respect to product covered hereby including without limitation, any warranties of merchantability or fitness for any particular purpose or for use under any specific conditions, notwithstanding that such purpose or condition may be known or made known to Seller.

10.3 All engines and alternators will only have warranty of their manufacturers, hence the sellers will not extend this standard norms for maximum 12 months.

10.4 There shall be no claims for defects where the discrepancy from the agreed condition is insignificant, where the impairment of use is insignificant, where there is normal wear and tear or where damages arise after the passing of risk as a consequence of incorrect or careless handling, excessive operational demands, unsuitable equipment or as a consequence of special exterior influences which in the agreement were not assumed and also where there are Software defects that

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cannot be reproduced. Where the Buyer or third parties have carried out amendments or repair work in an incorrect manner, no claims for defects may be made for these and their results.

11. NON-ASSIGNABILITY

The Buyer shall not be entitled to assign, in whole or in part, its obligations pursuant to these T&C's without the Seller's written consent. It is hereby clarified that no such written permission will discharge or release the Buyer from performing its obligations set out hereunder.

12. INDEMNITY

The Buyer shall indemnify and hold Seller harmless from and against any and all claims, charges, demands, damages, causes of actions, expenses (including reasonable attorney's fees and court costs) or suits at law or in equity, against it on account of, relating to, or arising from, or connected with, (i) injury to death of any person or persons whomsoever, (ii) damage to or destruction of any personal or real property (including subsurface property or property rights), resulting from or alleged to result from, directly or indirectly, the manufacture, use or sale of the products, except in the event of wilful misconduct or gross negligence, that may be directly attributable to the Seller.

13. INSURANCE

The Seller shall maintain an insurance coverage for the goods being delivered to the Buyer only till such time that they are dispatched to the Buyer. Once the goods are dispatched to the Buyer, the Buyer of the goods shall maintain, at its own expense with an insurance company acceptable to the Seller, a transferable insurance coverage for the risks, duration and journey specified in the contract of sale, for loss of or destruction of or damage to goods and/or merchandise whilst in transit from the Seller to the Buyer. Buyer shall furnish to the Seller, an insurance certificate evidencing the above coverages.

- 13.1 Once the goods leave the seller's premise, it is up to the buyer to make sure he has the goods insured by the buyer himself.

14. EXPORTATION

- 14.1 The goods delivered by the Seller may be exported to other countries only with Seller's written consent.
- 14.2 In case of any violation of Clause 13.1 above, the Seller shall be entitled to claim damages from the Buyer besides the right to withdraw from current orders.

15. CONFIDENTIALITY

- 15.1 The Parties undertake not to make any information received by the other party including these T&C's accessible to third parties either directly nor indirectly verbally or written or in any other way with the exception of members of their respective corporate group. The obligation for confidentiality does not apply in case information is disclosed to the third party with the express written consent of the disclosing contracting party. The disclosing party reserves all rights for its information.
- 15.2 The Buyer acknowledges and agrees that monetary damages for the Seller are not an adequate remedy for any breach of the secrecy undertakings hereunder and that Seller shall be entitled to equitable relief, including injunctive relief and/or specific performance, as a remedy for such breach, in addition to any other remedies available at law or in equity to Buyer.

16. TERMINATION

- 16.1 In the event that either party commits a material breach of these T&C's, the non-defaulting party shall give the defaulting party written notice of the alleged breach and a reasonable time within which to remedy the alleged breach. In the event that the defaulting party fails to remedy the alleged breach within such period the non-defaulting party may upon giving 14 days written notice to the defaulting party (without affecting any other claim or remedy) immediately terminate the T&C's (and the license granted herein) or any part thereof.
- 16.2 Termination for any reason shall not discharge the Buyer from performing any obligation or from payment of any sums already due or becoming due at the date of termination.
- 16.3 If either party files for bankruptcy or goes or is put into liquidation (other than solely for amalgamation or restructuring) or if a receiver is appointed over any part of the party's business or if the party suffers the seizure of any property for non-payment of debt, then the other party may regard any such circumstances as grounds for immediately terminating the T&C's (and in the event that Seller is the terminating party, any license granted therein) without notice.

17. LAWS AND DISPUTES

- 17.1 These T&C's shall be governed by and interpreted in accordance with the Laws of the United Arab Emirates. In the event that a dispute arises between the parties concerning these T&C's, they shall attempt in good faith, for a period of at least 15 days, to settle such dispute by discussion between members of their respective staffs. Thereafter, if the dispute remains unresolved, then either party may

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commence arbitration proceedings, which shall be conducted and settled in UAE in accordance with the provisions of the **Arbitration Law of UAE, issued by way of Royal Decree 47/97 and the amendments thereto**. The venue of arbitration shall be DIFC Court, Dubai, United Arab Emirates. The arbitration proceedings shall be conducted in the English language. Notwithstanding anything in these T&C's to the contrary, the existence of any dispute, including, without limitation, the pendency of any arbitration proceeding, shall not excuse nor suspend the obligation of the parties to continue performance of their obligations pursuant to these T&C's.

- 17.2 Notwithstanding the above, Buyer and Seller expressly agree that the U.N. Convention on Contracts for the International Sale of Goods shall not apply to these T&C's and are specifically and wholly excluded; where a buyer doesn't pay for product after delivery and after 15 days of time or whatever credit days clearly mentioned in written statement, will be charged 3 % for a month, till debt is paid off.