

Ricardo Performance Products Limited - Standard Terms and Conditions of Sale



1. General

These terms shall be incorporated into all contracts for the sale of goods and for supply of services by Ricardo Performance Products Limited ("Ricardo") to the Customer to the exclusion of any terms stipulated by the Customer. No modification or waiver of these terms shall be binding on Ricardo unless confirmed in writing by Ricardo.

2. Delivery

Delivery dates quoted are estimates only and are not binding. Ricardo shall have no liability to the Customer or any third party for any financial or other loss or damage (whether direct or indirect) if delivery is delayed, nor shall any such delay entitle the Customer to refuse to accept any goods or to refuse to pay in full for goods when they are delivered.

Prices quoted are ex-works and exclude freight, insurance and delivery charges, Value Added Tax and other taxes or duties, all of which will be invoiced to the Customer as applicable.

The Customer will be responsible for ensuring that the importation of any equipment supplied to Ricardo complies with the requirements of the UK Customs and Excise. Any costs incurred by Ricardo resulting from non-compliance with these requirements will be invoiced to the Customer.

Ricardo does not accept any responsibility for damage, shortage or loss in transit; Ricardo will take reasonable steps to assist the Customer's claim against the carrier for any damage, shortage or loss in transit.

If delays occur within the project as a result of delays in the provision by the Customer of information and/or equipment, or as a result of inadequate quality of this information and/or equipment, the parties will discuss and agree any required changes to the scope of work, timescale and, if necessary, cost estimate.

3. Quantities

Orders are accepted on the condition that Ricardo may at its option supply 5% more or less than the quantity ordered. Prices quoted assume all goods and services are ordered by the Customer.

4. Alteration of Prices

Ricardo reserves the right to increase the prices of the goods to reflect any increase in costs to Ricardo which is due to any factor beyond Ricardo's reasonable control such as (without limitation) any foreign exchange fluctuations, currency regulation, alteration of taxes or duties, increases in the cost of material or other costs of manufacture or delivery, any change in delivery dates, quantities or specifications for the goods which is requested by the Customer or any delay caused by any instructions of the Customer or failure of the Customer to give Ricardo adequate information or instructions.

5. Payment

Goods will be invoiced when ready for despatch (and all invoices are payable in Pounds Sterling). In no circumstances is the Customer entitled to make any deduction or withhold payments for any reason at all.

Where Ricardo has agreed to grant credit to the Customer, payment must be made no later than the thirtieth day following the invoice date. Credit terms may be withdrawn or altered by Ricardo at any time with or without notice.

Without prejudice to any other rights or remedies of Ricardo, if the Customer fails to settle any invoice by the due date interest shall be payable on any overdue amount from the date on which payment was due to that on which is made (whether before or after judgement) on a daily basis at the rate of 3% per annum above the base lending rate for the time being of Lloyds Bank Plc. The customer shall in addition reimburse Ricardo all costs and expenses (including legal costs) incurred in the collection of any overdue amount.

If by reason of failure to pay, late payment or otherwise Ricardo considers that the Customer's credit worthiness is impaired, then without prejudice to any other available remedy Ricardo shall be entitled to suspend further deliveries of goods or to suspend performance of its obligations under any contract with the Customer or treat such contract as repudiated.

6. Sub-Contracting of Work

Ricardo reserves the right to sub-contract the whole or part of any work at its absolute discretion.

7. Tooling

All tooling, fixtures and cutters are invoiced at part cost only and are to remain the property of Ricardo.

8. Infringement of Third Party Rights

The Customer shall indemnify Ricardo against all damages, penalties, cost and expenses to which Ricardo may become liable as a result of work done in accordance with the Customer's specification or requirements which results in infringement or alleged infringement of a patent, registered design or other intellectual property rights of any third party.

9. Confidentiality

All information technical or otherwise, given by Ricardo to the Customer shall be treated as confidential by the Customer and shall not be disclosed to any third party except with the written permission of Ricardo.

Ricardo reserve the right to publicise its involvement with the Customer concerning goods and/or services provided.

10. Ownership of Goods

Notwithstanding the earlier passing of risk, title in the goods shall remain with Ricardo and shall not pass to the Customer until the Customer has paid for them in full. Until title passes the Customer shall hold the goods as the fiduciary agent and bailee of Ricardo and the Customer shall store or make the goods so that all times they are identifiable as the property of Ricardo. Ricardo shall be entitled at any time before title passes to require the Customer to deliver up the goods to Ricardo and to enter upon any premises of the Customer or any third party to repossess the goods. If the Customer resells the goods the entire proceeds of such resale or any claim for such proceeds shall be held on trust for Ricardo without prejudice to any other claim, which Ricardo may have against the Customer in respect of the goods.

11. Warranty and Extent of Liability

Ricardo warrants to the Customer only, and not to Customer's affiliates or customers or any other third parties that (a) goods shall materially conform to Ricardo's specifications for such goods at the time of delivery to the Customer. This warranty shall be conditioned upon receipt by Ricardo of notice of any alleged non-conformance to specification within **thirty (30) days** after delivery to the Customer and of any alleged defect in material or workmanship within **thirty (30) days** after discovery. The foregoing warranty will not apply if the goods: (1) fail due to improper application, use, modifications, handling, installation, removal, repairs or maintenance by persons other than Ricardo; (2) are accidentally damaged or are subject to abuse or improper use; (3) are altered or damaged such that Ricardo cannot verify the defect with its normal test equipment; or (4) had had their markings altered or removed by a party other than Ricardo. The Customer's sole remedy and Ricardo's sole duty for any breach of this warranty will be for Ricardo, at Ricardo's option, to repair or replace the defective goods or to issue a credit to the Customer in the amount of the purchase price paid for such goods. In no event shall Ricardo be responsible for any costs associated with the removal (or re-installation) of goods from (or into) items into which such goods have been integrated by the Customer (or other third parties) or costs associated with other products into which the goods may have been integrated or used. The Customer will return defective goods to Ricardo, with Ricardo's prior consent, freight prepaid, FOB Ricardo's designated return facility. Ricardo will not be responsible for any costs incurred in removing goods from equipment or systems in which they have been installed. All defective goods or parts will become Ricardo's property upon replacement, repair or credit. Ricardo may use refurbished parts to repair or replace warranted goods, provided that Ricardo reasonably determines that such parts have the same estimated useful life as new parts. Ricardo will return repaired or replaced goods to Customer (to the delivery location of the original goods sale) at Ricardo's expense.

Except in the case of death or personal injury caused by Ricardo's negligence or as expressly provided for herein Ricardo shall not be liable to the Customer for any liability whether arising in contract or in tort including but not limited to negligence and breach of statutory duty, misrepresentation (unless fraudulent), any breach of warranty whether express or implied, any condition or other term, or any duty at common law for any loss of profit or indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of Ricardo, its servants, agents or otherwise) which arise out of or in connection with the supply of the goods or their use by the Customer; and Ricardo's total liability to the Customer shall not exceed, in aggregate, a refund of the purchase price paid by the Customer for the goods giving rise to such liability.

12. Returns of Goods

Goods cannot be accepted back for credit unless agreed by Ricardo. In cases where it may be agreed to accept the return of goods for credit, a handling charge may be made at Ricardo's absolute discretion. Such goods must be in resalable condition and returned carriage paid. No credit will be allowed for goods supplied more than 3 months previously.

13. Law

The applicable law shall be the law of England.