



Terms & Conditions

Sale of Equipment



1 Definitions and Interpretation

1.1 In these Conditions the following definitions apply

- Affiliate:** means any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;
- Applicable Law:** means all applicable laws, legislation, statutory instruments, regulations and governmental guidance having binding force whether local or national or international in any relevant jurisdiction;
- Bribery Laws:** means the Bribery Act 2010 and all Applicable Laws in connection with bribery or anti-corruption and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010;
- Business Day:** means a day other than a Saturday, Sunday or bank or public holiday when banks generally are open for non-automated business in England;
- Conditions:** means the Supplier's terms and conditions of sale set out in this document;
- Confidential Information:** means any commercial, financial, or technical information, information relating to the Equipment, plans, know-how or trade secrets which is obviously confidential in nature or has been identified as confidential, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Contract;
- Contract:** means the agreement between the Supplier and the Customer for the sale and purchase of the Equipment incorporating these Conditions and the Order, and including all its schedules, attachments, annexures and statements of work;
- Control:** has the meaning given to it in section 1124 of the Corporation Tax Act 2010 and Controls, Controlled and under common Control shall be construed accordingly;
- Customer:** means the named party in the Order which has agreed to purchase the Equipment from the Supplier;
- DAP:** means delivered at place Incoterm;
- Documentation:** means any descriptions, instructions, manuals, literature, technical details, or other related materials supplied in connection with the Equipment;
- Equipment:** means the equipment and related accessories, and Documentation and other physical material set out in the Order or understood by the parties to be included in the Equipment and to be supplied by the Supplier to the Customer in accordance with the Contract. Equipment shall include both Vehicles and Spare Parts;
- Force Majeure:** means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster, war, riot or civil unrest, interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service, or lack of material required for performance of the Contract, strike, lockout or boycott or other industrial action including those involving the Supplier's or its suppliers' workforce, but excluding the Customer's inability to pay or circumstances resulting in the Customer's inability to pay;



Incoterm:	means the International Chamber of Commerce's (ICC) Incoterms® Rules;
Intellectual Property:	means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in software, rights in goodwill, rights in Confidential Information, rights to invention, rights to sue for passing off, domain names and all other intellectual property rights and similar rights and, in each case:
IPR Claim:	has the meaning given in clause 15.1;
Location:	means the address or addresses for delivery of the Equipment as set out in the Order or such other address or addresses as notified by the Supplier to the Customer prior to delivery;
Order:	the Customer's order for the Equipment, as set out in the Customer's purchase order form or the Customer's acceptance of the Quote;
Price:	has the meaning given in clause 4.1;
Quote:	means the quote provided to the Customer by the Supplier setting out details of the Equipment and the Price to be paid;
Representatives:	has the meaning given in clause 37.4;
Spare Parts:	means any parts sold by the Supplier to the Customer as set out in the Order or understood by the parties to be supplied by the Supplier to the Customer, including all associated parts and Documentation, in accordance with the Contract;
Specification:	means any specification for the Equipment, including any related plans and drawings, agreed by the Customer and the Supplier;
Supplier:	means Acumec Limited registered in England and Wales at: Unit 3 Brunel Way, Stephenson Industrial Estate, Coalville, Leicestershire, LE67 3HF with company number 11440217 and VAT number 356375769;
VAT:	means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Equipment;
Vehicles:	means any motor vehicles sold by the Supplier to the Customer as set out in the Order or understood by the parties to be supplied by the Supplier to the Customer, including all associated parts and Documentation, in accordance with the Contract;
Warranty Period:	has the meaning given in clause 11.1.



- 1.2 In these Conditions, unless the context requires otherwise
- 1.2.1 a reference to the Contract includes these Conditions, the Order, and their respective schedules, appendices and annexes (if any);
- 1.2.2 any clause, schedule or other headings in these Conditions is included for convenience only and shall have no effect on the interpretation of the Conditions;
- 1.2.3 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;
- 1.2.4 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.2.5 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.6 a reference to a gender includes each other gender;
- 1.2.7 words in the singular include the plural and vice versa;
- 1.2.8 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.2.9 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form including email;
- 1.2.10 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of a party under the Contract;
- 1.2.11 a reference to legislation includes all subordinate legislation from time to time under that legislation; and
- 1.2.12 a reference to any English action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English equivalent in that jurisdiction.



2 Application of these conditions

- 2.1 These Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2 No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that the Supplier otherwise agrees in writing.
- 2.3 No variation of these Conditions or to an Order or to the Contract shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of each of the Supplier and the Customer respectively.
- 2.4 A Quote given by the Supplier shall not constitute an offer. A Quote shall only be valid for a period of 10 Business Days from its date of issue.
- 2.5 The Order constitutes an offer by the Customer to purchase the Equipment in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- 2.6 If the Supplier is unable to accept an Order, it shall notify the Customer in writing as soon as reasonably practicable.
- 2.7 The Supplier may accept or reject an Order at its discretion. An Order shall not be accepted, and no binding obligation to supply any Equipment shall arise, until the earlier of:
- 2.7.1 the Supplier's written acceptance of the Order; or
- 2.7.2 the Supplier dispatching the Equipment or notifying the Customer that they are available for collection (as the case may be).
- 2.8 Rejection by the Supplier of an Order, including any communication that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by the Customer.
- 2.9 Orders for Equipment are only binding on the Supplier for sales to bona fide end users for their own use in the normal course of the business (who may act through legitimate pre-authorised intermediaries) who shall supply such undertakings as the Supplier reasonably require to verify their status. No order for Equipment placed by an unauthorised reseller shall be valid, and if a Customer demonstrates an intention of acting as such the Supplier may immediately cancel any such Order and recover all administrative and other losses incurred, whether or not the Equipment is delivered to the Customer.



- 2.10 Any samples, drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Equipment referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.11 The Customer must satisfy themselves that the Equipment ordered meets all local laws and regulation

3 The Equipment

- 3.1 The Equipment is described in the Supplier's catalogue as modified by any applicable Specification.
- 3.2 To the extent that the Equipment is to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 The Supplier reserves the right to amend the Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

4 Price

- 4.1 The price for the Equipment shall be as set out in the Quote, or the Order, or the Supplier's written acceptance of the Order, or where no such provision is set out, shall be as advised by the Supplier from time to time before the date the Order is placed (the Price).
- 4.2 Unless expressly stated otherwise, the Prices are exclusive of:
- 4.2.1 packaging, delivery, insurance, shipping carriage, and all other related charges or taxes associated with the Equipment which are not included in the standard price which shall be charged in addition at the Supplier's standard rates; and
- 4.2.2 VAT (or equivalent sales tax).
- 4.3 The Customer shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.
- 4.4 The Supplier may increase the Prices at any time prior to delivery by giving the Customer not less than 10 Business Days' notice in writing.



4.5 Notwithstanding clause 4.4, the Supplier may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Supplier of supplying the relevant Equipment and which is due to any factor beyond the reasonable control of the Supplier. Any written notice however must be provided prior to delivery.

4.6 Should the Supplier increase the Price in accordance with 4.4 or 4.5 above, the Customer shall be entitled to terminate the Order by written notice within 5 Business Days of the increase. Should the Customer fail to terminate the Order within that 5 Business Day period, it waives its right to terminate the Order and is deemed to have accepted the price increase.

5 Payment

5.1 Save for clause 5.2 below, the Supplier shall invoice the Customer for the Equipment, partially or in full, at any time following acceptance of the Order.

5.2 With regards to any Vehicle funded through a third-party funder, the Supplier shall invoice both the funder and the Customer for the Vehicle following acceptance of the Order. The Customer shall however at all times remain liable for payment of the invoice.

5.3 Subject to any prior agreed credit arrangement and/or agreed written terms, the Customer shall pay all invoices:

5.3.1 in full without deduction or set-off;

5.3.2 in respect of Vehicles, in cleared funds within 5 Business Days of the date of the invoice;

5.3.3 in respect of Spare Parts, in cleared funds within 30 Business Days of the date of the invoice;

5.3.4 to the bank account nominated by the Supplier; and

5.3.5 in pounds sterling.

5.4 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:

5.4.1 the Supplier may, without limiting its other rights, withhold and/or refuse delivery of the Equipment until payment has been made;

5.4.2 the Supplier may, without limiting its other rights, charge interest on such sums at 4% a year above the base rate of the Bank of England from time to time in force; and

5.4.3 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment.



- 5.4 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:
- 5.4.1 the Supplier may, without limiting its other rights, withhold and/or refuse delivery of the Equipment until payment has been made;
 - 5.4.2 the Supplier may, without limiting its other rights, charge interest on such sums at 4% a year above the base rate of the Bank of England from time to time in force; and
 - 5.4.3 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment.

6 Credit limit

- 6.1 The Supplier may set and vary credit limits from time to time and withhold all further Equipment if the Customer exceeds such credit limit.

7 Deposit

- 7.1 The Supplier may request a deposit from the Customer in advance of delivery of the Equipment. Any request for deposit will be invoiced in accordance with clause 5.1 above and will be paid in accordance with clause 5.2 to clause 5.4 (inclusive).

8 Delivery

- 8.1 Where Equipment is to be delivered to a country outside of the United Kingdom, the delivery of the Equipment will be made Incoterm DAP (Incoterms 2010) unless expressly agreed otherwise by the Supplier in writing.
- 8.2 The Equipment shall be delivered by the Supplier, or its nominated carrier, to the Location on the date(s) specified by the Supplier to the Customer.
- 8.3 The Equipment shall be deemed delivered on arrival at the Location by the Supplier or its nominated carrier (as the case may be).
- 8.4 The Customer shall be responsible for unloading the Equipment at the Location.
- 8.5 The Supplier may deliver the Equipment in instalments. Any delay or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 8.6 The Customer shall not be entitled to reject a delivery on the basis that an incorrect volume has been supplied.



- 8.7 Delivery of the Equipment shall be accompanied by a delivery note stating:
- 8.7.1 the date of the Order;
 - 8.7.2 if delivered in instalments, the product numbers, type and quantity of the Equipment in the instalment; and
 - 8.7.3 any special handling instructions.
- 8.8 Time of delivery is not of the essence. The Supplier shall use its reasonable endeavours to meet delivery dates but such dates are indicative only.
- 8.9 Unless the parties agree otherwise, packaging material is to be promptly returned to the Supplier at the Customer's expense.
- 8.10 The Supplier shall not be liable for any delay in or failure of delivery caused by:
- 8.10.1 the Customer's failure to settle the Supplier's invoice in accordance with clause 5.3;
 - 8.10.2 the Customer's failure to make the Location available;
 - 8.10.3 the Customer's failure to prepare the Location in accordance with the Supplier's instructions;
 - 8.10.4 the Customer's failure to provide the Supplier with adequate instructions for delivery of the Equipment; and
 - 8.10.5 a Force Majeure event.
- 8.11 If the Customer fails to accept delivery of the Equipment the Supplier shall store and insure the Equipment pending delivery, and the Customer shall pay all reasonable storage and insurance charges.
- 8.12 If 10 Business Days following the due date for delivery or collection of the Equipment, the Customer has not taken delivery of or collected them, the Supplier may resell or otherwise dispose of the Equipment without any obligation or liability to the Customer, except as provided for in clauses 8.12.1 and 8.12.2. The Supplier shall:
- 8.12.1 deduct all reasonable storage charges and costs of resale; and
 - 8.12.2 account to the Customer for any excess of the resale price over, or invoice the Customer for any shortfall of the resale price below, the Price paid by the Customer for the Equipment.
- 8.13 If the Supplier fails to deliver the Equipment, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement equipment of similar description and quality in the cheapest market available, less the price of the Equipment.
- 8.14 The Supplier may withhold and/ or refuse delivery of any item of Equipment where the Customer has failed to make payment of the Supplier's invoice in accordance with clause 5.3 above.



9 Risk

9.1 Risk in the Equipment shall pass to the Customer on delivery.

10 Title

10.1 Title to the Equipment shall only pass to the Customer once the Supplier has received payment in full and cleared funds for the Equipment.

10.2 Until title to the Equipment has passed to the Customer, the Customer shall:

10.2.1 hold the Equipment as bailee for the Supplier;

10.2.2 store the Equipment separately from all other material in the Customer's possession;

10.2.3 take all reasonable care of the Equipment and keep them in the condition in which they were delivered;

10.2.4 insure the Equipment from the date of delivery: (i) with a reputable insurer (ii) against all risks (iii) for an amount at least equal to their Price (iv) noting the Supplier's interest on the policy;

10.2.5 ensure that the Equipment are clearly identifiable as belonging to the Supplier;

10.2.6 not remove or alter any mark on or packaging of the Equipment;

10.2.7 inform the Supplier immediately if it becomes subject to any of the events or circumstances set out in clauses 20.1.1 to 20.1.4 or 20.2.1 to 20.2.14; and

10.2.8 on reasonable notice permit the Supplier to inspect the Equipment during the Customer's normal business hours and provide the Supplier with such information concerning the Equipment as the Supplier may request from time to time.

10.3 The Customer may use but may not resell the Equipment until such time as title has passed in accordance with clause 10.1.

10.4 If, at any time before title to the Equipment has passed to the Customer, the Customer informs the Supplier, or the Supplier reasonably believes, that the Customer has or is likely to become subject to any of the events specified in clauses 20.1.1 to 20.1.4 or 20.2.1 to 20.2.14, the Supplier may:

10.4.1 require the Customer at the Customer's expense to re-deliver the Equipment to the Supplier; and

10.4.2 if the Customer fails to do so promptly, enter any premises where the Equipment are stored and repossess them.



11 Warranty

- 11.1 The Supplier warrants that the Vehicles shall, for a period of 12 months from delivery (the Warranty Period):
- 11.1.1 conform in all material respects to the Order and the Specification; and
 - 11.1.2 be free from material defects in design, material, and workmanship.
- 11.2 The Customer warrants that it has provided the Supplier in writing with all relevant, full and accurate information as to the Customer's business and needs.
- 11.3 As the Customer's sole and exclusive remedy, the Supplier shall, at its option, repair, replace, or refund the Price of any of the Vehicles that do not comply with clause 11.1, provided that the Customer:
- 11.3.1 serves a written notice on Supplier:
 - (a) during the Warranty Period in the case of defects discoverable by a physical inspection; or
 - (b) in the case of latent defects, within one month from the date on which the Customer became aware (or should reasonably have become aware) of the defect;
 - 11.3.2 provides the Supplier with sufficient information as to the nature and extent of the defects and the uses to which the Vehicle had been put prior to the defect arising;
 - 11.3.3 gives the Supplier a reasonable opportunity to examine the defective Vehicle; and
 - 11.3.4 returns the defective Vehicle to the Supplier at the Customer's expense.
- 11.4 The provisions of these Conditions, including the warranties set out in clause 11.1, shall apply to any Vehicle that is repaired or replaced with effect from the date of delivery of the repaired or replaced Vehicle.
- 11.5 The Supplier shall not be liable for any failure of the Vehicle to comply with clause 11.1:
- 11.5.1 where such failure arises by reason of wear and tear, wilful damage, negligence, or could be expected to arise in the normal course of use of the Vehicle;
 - 11.5.2 to the extent caused by the Customer's failure to comply with the Supplier's instructions in relation to the Vehicle, including any instructions on installation, operation, storage or maintenance;
 - 11.5.3 to the extent caused by the Supplier following any specification, instruction or requirement of or given by the Customer in relation to the Vehicle;



- 11.5.4 where the Customer modifies the Vehicle without the Supplier's prior written consent or, having received such consent, not in accordance with the Supplier's instructions; or
- 11.5.5 where the Customer uses the Vehicle after notifying the Supplier that they do not comply with clause 11.1.
- 11.6 All Spare Parts will be supplied with the manufacturer's warranty only. Any defect and/or issue with the Spare Parts should be raised directly with the manufacturer of the Spare Parts.
- 11.7 Except as set out in this clause 11:
 - 11.7.1 the Supplier gives no warranties and makes no representations in relation to the Equipment;
 - 11.7.2 shall have no liability for their failure to comply with the warranty in clause 11.1; and
 - 11.7.3 all warranties and conditions (including the conditions implied by ss 13–15 of the Sale of Equipment Act 1979), whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.

12 Anti-Bribery

- 12.1 For the purposes of this clause 12 the expressions 'adequate procedures' and 'associated with' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
- 12.2 Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that:
 - 12.2.1 all of its personnel;
 - 12.2.2 all others associated with it; and
 - 12.2.3 all of its subcontractors; involved in performing the Contract so comply.
- 12.3 Without limitation to clause 12.2, neither party shall make or receive any bribe (which term shall be construed in accordance with the Bribery Act 2010) or other improper payment or advantage or allow any such bribe or improper payment or advantage to be made or received on its behalf, either in the United Kingdom or elsewhere and shall implement and maintain adequate procedures to ensure that such bribes or improper payments or advantages are not made or received directly or indirectly on its behalf.
- 12.4 The Customer shall immediately notify the Supplier as soon as it becomes aware of a breach or possible breach by the Customer of any of the requirements in this clause 12.



12.5 Any breach of this clause 12 by the Customer shall be deemed a material breach of the Contract that is not remediable and shall entitle the Supplier to immediately terminate the Contract by notice under clause 20.1.1.

13 Indemnity

13.1 The Customer shall indemnify the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses which the Supplier may suffer or incur directly or indirectly from the Customer's breach of any of its obligations under the Contract.

14 Limitation of Liability

14.1 The extent of the Supplier's liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 14.

14.2 Subject to clauses 14.5 and 14.6, the Supplier's total liability for any claim shall not exceed the amounts paid by the Customer for the Equipment that forms the basis of the claim under this clause 14.

14.3 Subject to clauses 14.5 and 14.6, the Supplier shall not be liable for consequential, indirect or special losses.

14.4 Subject to clauses 14.5 and 14.6, the Supplier shall not be liable for any of the following (whether direct or indirect):

14.4.1 loss of profit;

14.4.2 loss of revenue;

14.4.3 loss or corruption of data;

14.4.4 loss or corruption of software or systems;

14.4.5 loss or damage to equipment;

14.4.6 loss of use;

14.4.7 loss of production;

14.4.8 loss of contract;

14.4.9 loss of commercial opportunity;

14.4.10 loss of savings, discount or rebate (whether actual or anticipated);

14.4.11 harm to reputation or loss of goodwill; and/or

14.4.12 wasted expenditure.

14.5 The limitations of liability set out in clauses 14.2 to 14.4 shall not apply in respect of any indemnities given by either party under the Contract.



14.6 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:

14.6.1 death or personal injury caused by negligence;

14.6.2 fraud or fraudulent misrepresentation;

14.6.3 any other losses which cannot be excluded or limited by Applicable Law; and

14.6.4 any losses caused by wilful misconduct.

15 Intellectual Property Rights

15.1 The Supplier shall indemnify the Customer from and against any losses, damages, liability, costs and expenses (including reasonable professional fees) incurred by it as a result of any action, demand or claim that use or possession of the Equipment infringes the Intellectual Property Rights of any third party (IPR Claim), provided that the Supplier shall have no such liability if the Customer:

15.1.1 does not notify the Supplier in writing setting out full details of any IPR Claim of which it has notice as soon as is reasonably possible;

15.1.2 makes any admission of liability or agrees any settlement or compromise of the relevant IPR Claim without the prior written consent of the Supplier;

15.1.3 does not let the Supplier at its request and own expense have the conduct of or settle all negotiations and litigation arising from the IPR Claim at its sole discretion;

15.1.4 does not take all reasonable steps to minimise the losses that may be incurred by it or by any third party as a result of the IPR Claim;

15.1.5 does not, at the Supplier's request, provide the Supplier with all reasonable assistance in relation to the IPR Claim (at the Customer's expense) including the provision of prompt access to any relevant premises, officers, employees, contractors or agents of the Customer;

15.1.6 uses the Equipment in combination with any other Equipment or services, which without such combination, no IPR Claim could or would have been made.

15.2 If any IPR Claim is made or is reasonably likely to be made, the Supplier may at its option:

15.2.1 procure for the Customer the right to continue using and possessing the relevant Equipment; or

15.2.2 modify or replace the infringing part of the Equipment so as to avoid the infringement or alleged infringement, provided the Equipment remain in material conformance to their Specification.



15.3 The Supplier's obligations under clause 15.1 shall not apply to Equipment modified or used by the Customer other than in accordance with the Contract or the Supplier's instructions. The Customer shall indemnify the Supplier against all losses, damages, liability, costs and expenses (including reasonable legal fees) incurred by the Supplier in connection with any claim arising from such modification or use.

16 Data

16.1 The Customer acknowledges and agrees that certain Equipment (Telematics Equipment) may be fitted with a telematics system (Telematics System). The Telematics System gathers, records, and stores certain vehicle, performance, and environmental data (Data) from the Telematics Equipment and transmits the Data to the Supplier (or to an IT services provider acting on behalf of the Supplier). In the future, and subject to the Customer's agreement in writing, the Telematics System may also receive Data.

16.2 The Customer and the Supplier agree that:

16.2.1 the Customer consents to the Supplier's use of and access to the Telematics System and the gathering, recording, storing, transmitting and use of the Data;

16.2.2 the Data may include, without limitation, information relating to the Telematics Equipment's identity, performance, location and operation, including diagnostics;

16.2.3 all Data is and will remain the property of the Supplier;

16.2.4 the Supplier and third parties authorised by the Supplier may view, access and use the Data as part of their business;

16.2.5 to the extent that the Supplier or its authorised third parties wishes to use the Data for marketing, environmental reporting or other similar purposes, they will do so only in a form that is sufficiently anonymised so that the Customer cannot reasonably be identified by such use of the Data unless that use is authorised in advance and in writing by the Customer; and

16.2.6 the Supplier may disclose the Data to the extent that it is required to do so by law or any governmental or regulatory authority.

17 General Data Protection Regulation (GDPR) (EU) 2016/679

Each of the Customer and the Supplier undertakes that it will comply with all applicable data protection laws in connection with the performance of its obligations under the Contract, including the General Data Protection Regulation (GDPR) (EU) 2016/679.

18 Confidentiality and announcements



- 18.1 The Customer shall keep confidential all Confidential Information of the Supplier and of any Affiliate of the Supplier and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:
- 18.1.1 any information which was in the public domain at the date of the Contract;
 - 18.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
 - 18.1.3 any information which is independently developed by the Customer without using information supplied by the Supplier or by any Affiliate of the Supplier; or
 - 18.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.
- 18.2 This clause 18 shall remain in force for a period of five years from the date of the Contract and, if longer, three years after termination of the Contract.
- 18.3 The Customer shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.

19 Force Majeure

Except for the Customer's liability to pay sums due under these Conditions, neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from Force Majeure. The party subject to the Force Majeure event shall promptly notify the other party in writing when such the event causes a delay or failure in performance and when it ceases to do so. If the Force Majeure event continues for a continuous period of more than 28 days, either party may terminate the Contract by written notice to the other party.

20 Termination

- 20.1 The Supplier may terminate the Contract or any other contract which it has with the Customer at any time by giving notice in writing to the Customer if:
- 20.1.1 the Customer commits a material breach of the Contract and such breach is not remediable;
 - 20.1.2 the Customer commits a material breach of the Contract which is not remedied within 14 Business Days of receiving written notice of such breach;
 - 20.1.3 the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid 30 days after the date that the Supplier has given notification to the Customer that the payment is overdue; or



- 20.1.4 any consent, licence or authorisation held by the Customer is revoked or modified such that the Customer is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled.
- 20.2 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if the Customer:
- 20.2.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
 - 20.2.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the Supplier reasonably believes that to be the case;
 - 20.2.3 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
 - 20.2.4 becomes subject to a moratorium under Part A1 of the Insolvency Act 1986;
 - 20.2.5 becomes subject to a restructuring plan under Part 26A of the Companies Act 2006;
 - 20.2.6 becomes subject to a scheme of arrangement under Part 26 of the Companies Act 2006;
 - 20.2.7 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
 - 20.2.8 has a resolution passed for its winding up;
 - 20.2.9 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
 - 20.2.10 is subject to any procedure for the taking control of its equipment that is not withdrawn or discharged within seven days of that procedure being commenced;
 - 20.2.11 has a freezing order made against it;
 - 20.2.12 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title to those items;
 - 20.2.13 is subject to any events or circumstances analogous to those in clauses 20.2.1 to 20.2.12 in any jurisdiction; or
 - 20.2.14 takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clauses 20.2.1 to 20.2.13 including giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.



- 20.3 The Supplier may terminate the Contract any time by giving not less than four weeks' notice in writing to the Customer if the Customer undergoes a change of Control or if it is realistically anticipated that it shall undergo a change of Control within two months.
- 20.4 The right of the Supplier to terminate the Contract pursuant to clause 20.2 shall not apply to the extent that the relevant procedure is entered into for the purpose of amalgamation, reconstruction or merger (where applicable) of the Customer where the amalgamated, reconstructed or merged entity agrees to adhere to the Contract.
- 20.5 If the Customer becomes aware that any event has occurred, or circumstances exist, which may entitle the Supplier to terminate the Contract under this clause 20, it shall immediately notify the Supplier in writing.
- 20.6 Termination or expiry of the Contract shall not affect:
- 20.6.1 any accrued rights and liabilities of the Supplier at any time up to the date of termination; and
- 20.6.2 the Customer's liability to pay sums due to the Supplier in respect of any Contract entered into prior to the date of termination.

21 Notices

- 21.1 Any notice or other communication given by a party under these Conditions shall:
- 21.1.1 be in writing and in English;
- 21.1.2 be signed by, or on behalf of, the party giving it (except for notices sent by email); and
- 21.1.3 be sent to the relevant party at the address set out in the Contract.
- 21.2 Notices may be given, and are deemed received:
- 21.2.1 by hand: on receipt of a signature at the time of delivery;
- 21.2.2 by Royal Mail Recorded Signed For post: at 9.00 am on the second Business Day after posting;
- 21.2.3 by Royal Mail International Tracked & Signed or Royal Mail International Signed post: at 9.00 am on the fourth Business Day after posting; and
- 21.2.4 by email on the time of transmission, unless after 17:00pm when the email will be deemed received at 9:00am on the next Business Day.
- 21.3 Any change to the contact details of a party as set out in the Contract shall be notified to the other party in accordance with clause 21.1 and shall be effective:



- 21.3.1 on the date specified in the notice as being the date of such change; or
- 21.3.2 if no date is so specified, ten Business Days after the notice is deemed to be received.
- 21.4 This clause 21 does not apply to notices given in legal proceedings or arbitration.

22 Cumulative Remedies

The rights and remedies provided in the Contract for the Supplier only are cumulative and not exclusive of any rights and remedies provided by law.

23 Time

Unless stated otherwise, time is of the essence of any date or period specified in the Contract in relation to the Customer's obligations only.

24 Further Assurance

The Customer shall at the request of the Supplier, and at the Customer's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

25 Entire Agreement

- 25.1 The parties agree that the Contract and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 25.2 Each party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.
- 25.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.

26 Variation

No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, each party.



27 Assignment

- 27.1 The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Supplier's prior written consent, such consent not to be unreasonably withheld or delayed.
- 27.2 The Supplier may assign, subcontract or encumber any right or obligation under the Contract, in whole or in part.

28 Set-off

- 28.1 The Supplier shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract or under any other contract which the Supplier has with the Customer.
- 28.2 The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

29 No Partnership or Agency

The parties are independent to one another and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

30 Equitable Relief

The Customer recognises that any breach or threatened breach of the Contract may cause the Supplier irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the Supplier, the Customer acknowledges and agrees that the Supplier is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

31 Severance

- 31.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.
- 31.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with the minimum such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.



32 Waiver

- 32.1 No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 32.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Supplier shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Supplier.
- 32.3 A waiver of any term, provision, condition or breach of the Contract by the Supplier shall only be effective if given in writing and signed by the Supplier, and then only in the instance and for the purpose for which it is given.

33 Compliance with Law

The Customer shall comply with all Applicable Law and shall maintain such licences, authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.

34 Conflicts

- 34.1 If there is a conflict between the terms contained in the Conditions and the terms of the Order, schedules, appendices or annexes to the Contract, the terms of the Conditions shall prevail to the extent of the conflict.
- 34.2 Where there is any inconsistency or conflict between the Incoterms and these Conditions, the terms of the Conditions shall prevail.

35 Costs and Expenses

The Customer shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of the Contract (and any documents referred to in it).

36 Third Party Rights

- 36.1 Except as expressly provided for in clause 36.2, a person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.
- 36.2 Any Affiliate of the Supplier shall be entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract. The consent of any such Affiliate is not required in order to rescind or vary the Contract or any provision of it.



37 Dispute Resolution

- 37.1 Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 37.
- 37.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.
- 37.3 The parties shall use all reasonable endeavours to reach a negotiated resolution prior to issuing formal legal proceedings.
- 37.4 Within five Business Days of service of the notice, representatives of each of the parties (Representatives) shall meet to discuss the dispute and attempt to resolve it.
- 37.5 Until the parties have completed the steps referred to in clause 37.4, and have failed to resolve the dispute, neither party shall commence formal legal proceedings except that either party may at any time seek urgent interim relief from the courts.

38 Governing Law

The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

39 Jurisdiction

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).



Quote - Acumec Limited

Date:	
Supplier:	Acumec Limited
Supplier's Registered Address:	Unit 3 Brunel Way, Stephenson Industrial Estate, Coalville, Leicestershire, LE67 3HF
Supplier Company Number:	11440217
Supplier VAT Number:	356375769
Customer:	
Customer's Registered Address:	
Delivery Location:	
Delivery Dates / Period:	

Equipment

Reference	Equipment	Description	Price

Until payment has been made in full for the equipment, title and ownership of the equipment will remain with the Supplier.

The terms and conditions which apply to and govern the contract between the Supplier and the Customer for the purchase of the above equipment are the terms and conditions of sale found at www.acumec.com/terms. Hard copies can be obtained by contacting info@acumec.com. The parties agree that all other terms and conditions are expressly excluded.

The Customer has read and accepts the terms and conditions found at www.acumec.com/terms.

The Supplier (Acumec):

Authorised Signature

Print Name:

Date:

The Customer:

Authorised Signature

Print Name:

Date: