



Terms & Conditions of Trade

1. DEFINITIONS

- a. "Autobend" shall mean Autobend Limited, or any agents or employees thereof.
- b. "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing products and services from Autobend.
- c. "Goods and Services" shall mean all goods, products, services and advice provided by Autobend to the Customer.

2. ACCEPTANCE

- a. Any instructions received and agreed to by Autobend from the Customer for the supply of Goods and Services shall constitute a binding contract and acceptance of the Terms and Conditions contained herein.
- b. Terms and Conditions are subject to change without notice, however the version in force at the time of acceptance shall be deemed as being the accepted Terms and Conditions.

3. COLLECTION AND USE OF INFORMATION

- a. The Customer authorises Autobend to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract, or marketing any Goods and Services provided by Autobend to any other party.

4. PRICE

- a. Where no price is stated in writing or agreed to orally the Goods and Services shall be deemed to be sold at the current amount as such Goods and Services are sold by Autobend at the time of the contract.
- b. The price may be increased by the amount of any reasonable increase in the cost of supply of the Goods and Services that is beyond the control of Autobend between the date of the contract and delivery of the Goods and Services.

5. PAYMENT

- a. Unless the Customer has an approved Credit Account with Autobend, payment in full is required before any goods will be released.
- b. Where the Customer has an approved Credit Account with Autobend payment for Goods and Services shall be made in full on or before the 20th day of the month following the date of the invoice (the 'due date').
- c. Any expenses, disbursements and legal costs incurred by Autobend in the enforcement of any rights contained in this contract shall be paid by the Customer, including any reasonable solicitor's fees or debt collection agency fees.
- d. Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.

- e. A deposit may be required.
- f. Any discount given on invoices charged to a Credit Account are subject to the invoice being paid in full by the due date as specified in clause 5.2 above.
- g. Interest may be charged on any amount owing after the 'due date' at the rate of 2% per month.

6. QUOTATION

- a. Unless otherwise agreed a quotation given by Autobend for Goods and Services shall be valid for thirty (30) days from the date of issue.
- b. Autobend reserves the right to alter the quotation because of circumstances beyond its control.
- c. Where Goods and Services are required in addition to the quotation the Customer agrees to pay for the additional cost of such Goods and Services.

7. RISK

- a. Delivery of Goods and Services shall be deemed complete when Autobend gives possession of the Goods and Services directly to the Customer or possession of the Goods and Services is given to a carrier, courier, or other Bailee for purposes of transmission to the Customer.
- b. The time agreed for delivery shall not be an essential term of this contract unless the Customer gives written notice to Autobend and Autobend accept that timeframe.

8. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

- a. Title in any Goods and Services supplied by Autobend passes to the Customer only when the Customer has made payment in full for all Goods and Services provided by Autobend and of all other sums due to Autobend by the Customer on any account whatsoever. Until all sums due to Autobend by the Customer have been paid in full, Autobend has a security interest in all Goods and Services.
- b. If the Goods and Services are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Goods and Services shall remain with Autobend until the Customer has made payment for all Goods and Services, and where those Goods and Services are mixed with other property so as to be part of or a constituent of any new Goods and Services, title to these new Goods and Services shall be deemed to be assigned to Autobend as security for the full satisfaction by the Customer of the full amount owing between Autobend and Customer.
- c. The Customer gives irrevocable authority to Autobend to enter any premises occupied by the Customer or on which Goods and Services are situated at any reasonable time after default by the Customer or before default if Autobend believes a default is likely and to remove and repossess any Goods and Services and any other property to which Goods and Services are attached or in which Goods and Services are incorporated. Autobend shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. Autobend may either resell any repossessed Goods and Services and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Goods and Services and credit the Customer's account with the invoice value thereof less such sum as Autobend reasonably

- determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- d. Where Goods and Services are retained by Autobend pursuant to clause 10.3 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.
 - e. The following shall constitute defaults by the Customer:
 - I. Non-payment of any sum by the due date.
 - II. The Customer intimates that it will not pay any sum by the due date.
 - III. Any Goods and Services are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Goods and Services.
 - IV. Any Goods and Services in the possession of the Customer are materially damaged while any sum due from the Customer to Autobend remains unpaid.
 - V. The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or landlord distains against any of the Customer's assets.
 - VI. A Court judgement is entered against the Customer and remains unsatisfied for seven (7) days.
 - VII. Any material adverse change in the financial position of the Customer.

9. GENERAL LIEN

- a. The Customer agrees that Autobend may exercise a general lien against any Goods and Services or property belonging to the Customer that is in the possession of Autobend for all sums outstanding under this contract and any other contract to which the Customer and Autobend are parties.
- b. If the lien is not satisfied within seven (7) days of the due date Autobend may, having given notice of the lien at its option either:
 - I. Remove such Goods and Services and store them in such a place and in such a manner as Autobend shall think fit and proper and at the risk and expense of the Customer;
 - II. Or sell such Goods and Services or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage caused.

10. RETURN OF GOODS

- a. Any Goods returned for credit must be received at the company branch from which they were dispatched within 14 (fourteen) days from date of sale.
- b. Goods returned for credit after 14 (fourteen) days from date of sale will attract a 10% or \$20 plus GST (whichever is greater) restocking fee.
- c. Goods approved for return must be in the same resalable condition and be unaltered and undamaged.
- d. Return freight costs must be prepaid by the Customer.
- e. Autobend will only accept returns of current stock lines, no custom made or modified parts will be accepted for credit
- f. Autobend reserves the right to reject products not conforming to all clauses in section 10.

11. LIABILITY

- a. The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Autobend which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Autobend, Autobend Ltd liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- b. Except as otherwise provided by clause 14.1 Autobend shall not be liable for:
 - I. Any loss or damage of any kind whatsoever including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Goods and Services provided by Autobend to the Customer; and
 - II. The Customer shall indemnify Autobend against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Autobend or otherwise, brought by any person in connection with any matter, act, omission, or error by Autobend its agents or employees in connection with the Goods and Services.
- c. Autobend's total liability will not exceed that of the original invoice value.
- d. The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Goods and Services from Autobend for the purposes of a business in terms of section 2 and 43 of that Act.

12. WARRANTY

- a. No representation, condition, warranty or promise expressed or implied by law or otherwise applies to the Goods and Services except where goods are supplied or services provided pursuant to the Consumer Guarantees Act 1993 or except where expressly stated in this contract.
- b. Autobend does not provide any warranty that the Goods and Services are fit and suitable for the purpose for which they are required by the Customer and shall not be liable if they are not.
- c. Autobend MUST be given the opportunity to repair or replace any defective part.

13. CANCELLATION

- a. Autobend shall, without any liability, and without any prejudice to any other right it has in law or equity, have the right by notice to suspend or cancel in whole or in part any contract for the supply of Goods and Services to the Customer if the Customer fails to pay any money owing after the due date or the Customer commits an act of bankruptcy as defined in section 19 of the Insolvency Act 1967.
- b. Any cancellation or suspension of this agreement shall not affect Autobend claim for money due at the time of cancellation or suspension or for damages for any breach of any terms of this contract or the Customer's obligations to Autobend under this contract.

14. MISCELLANEOUS

- a. Autobend shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- b. Failure by Autobend to enforce any of the Terms and Conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations Autobend Ltd has under this contract.
- c. If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- d. The client shall not assign all or any of its rights or obligations under this contract without the written consent of Autobend Ltd.
- e. Where these Terms and Conditions of Trade are at variance with the order or instructions from the Customer these Terms and Conditions of Trade shall prevail.
- f. Unless Autobend Ltd elects otherwise, any dispute between the parties is to be dealt with in accordance with the Arbitration Act 1996.
- g. All electronic drawing files (DXF, DWG, Solidworks etc) must be scaled 1:1, clean and ready for processing.
- h. All electronic drawing files (DXF, DWG, Solidworks etc) must have a unique name, if a supplied file is the same name as one previously supplied by the Customer, we will deem it as being the same.
- i. A separate file is required for each profile.
- j. Customer supplied material must be within specification to fit our toolsets and machines.
- k. Should a customer supply their own material we require a material certificate, we offer no guarantee and the job is processed completely at the customers risk on an "all care – no responsibility" basis.
- l. Where a customer supplies their own material for laser / waterjet cutting, cut profiles will not be devanned from the sheet unless specifically requested at the quoting stage.
- m. Due to engineering processes we recommended all parts be cleaned and dried by the Customer before installation or further processing.
- n. Where material to be laser cut has protective "Fibre Film" this will not be removed prior to cutting Autobend accepts no responsibility for damage caused by "Fibre Film" sticking to cut parts

15. INTELLECTUAL PROPERTY

- a. The Company shall retain the copyright in all drawings of any products produced for the Customer unless otherwise agreed in writing.
- b. If the Customer provides the Company with any specifications, designs or drawings for the production or manufacture of any item or items then the Customer hereby warrants that the use of these designs, drawing or specifications will not infringe any third party's rights and the Customer hereby indemnifies the Company against any claims demands suits or actions in relation thereto.

16. RIGHTS OF THE COMPANY TO DISPOSE OF GOODS

- a. In the event that the Company retains or regains possession of the goods ordered by the Customer and the Customer has not paid for the goods within the Company's Terms of Trade then the Company may dispose of the goods and may claim from the Customer any loss the Company has suffered in relation to same.

17. SUB-CONTRACTING

- a. The Customer acknowledges that the Company may sub-contract all or any part of the works that the Company has been contracted to carry out on such terms as it deems fit and to which the Customer hereby agrees.

18. FORCE MAJEURE

- a. The Company will not be in default or breach of any dealing with the Customer as a result of Force Majeure.

19. INSURANCE

- a. It shall be the Customer's responsibility to insure and to keep insured any goods it supplies to the Company's premises for processing whilst those goods remain at the Company's premises.

20. STORAGE FEE

- a. All goods left with the Company for more than seven (7) days after completion of processing shall attract a storage fee equal to 10% of the total invoice value each week.

21. OWNERSHIP OF SCRAP MATERIAL

- a. Unless the Customer requests the offcuts or scrap material in writing at the time the order is placed the Company has the right to dispose of same at the completion of works.

22. DESIGN OF PRODUCT

- a. In the event that the design of the product is other than that of the Company's the Company shall not be liable for any replacement cost or damage as a result of failure of product.

23. PROFILE CUTTING

- a. The Company reserves the right to either laser cut or waterjet cut as a cutting option for the materials being used to create the design of the product for the Customer.

24. MATERIAL GRADE AND SPECIFICATION

- a. The Company reserves the option to choose what material grade suits the Customer's order unless the Customer specifies in writing a particular material grade.

25. USE OF IMAGES FOR ADVERTISING

- a. The Customer hereby consents to the Company using images of finished works in its advertising material.

laser cutting

tube bending

waterjet cutting

exhaust systems