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# Sales of Contract Terms and Conditions

Updated 31.03.22



## **Application and entire agreement**

These Terms and Conditions will apply to the purchase of the goods detailed in our quotation by the buyer from Opus CNC Ltd a company registered in England and Wales under number 10763041 whose registered office is at Units A-D, Roeburn House, Mandale Business Park, Durham, DH1 1TH.

These Terms and Conditions will be deemed to have been accepted by you when you accept them or the quotation or from the date of any deposit paid and will constitute the entire agreement between us and you.

These Terms and Conditions and the quotation apply to the purchase and sale of any Goods between us and you, to the exclusion of any other terms that you try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

## **Interpretation**

A "business day" means any day other than a Saturday, Sunday or bank holiday in England and Wales.

The headings in these Terms and Conditions are for convenience only and will not affect their interpretation.

Words imparting the singular number include the plural and vice-versa.

## **Goods**

The description of the Goods is set out in our quotation. In accepting the quotation you acknowledge that you have not relied upon any statement, promise or other representations about the Goods by us.

## **Price**

The price of the Goods is set out in our quotation current at the date of your order or such other price as we may agree in writing.



## **Cancellation and alteration**

Details of the Goods as described in the clause above (Goods) and set out in our sales documentation are subject to alteration without notice and are not a contractual offer to sell the Goods which is capable of acceptance.

The quotation (including any non-standard price negotiated in accordance with the clause on Price (above) is valid for a period of 28 days only from the date shown in it unless expressly withdrawn by us at an earlier time.

Either of us can cancel the order for any reason prior to your acceptance (or rejection) of the quotation. Any deposit paid after acceptance of the quotation will not be refunded in the event of a cancellation by you. Should Opus CNC cancel the order for any reason, the refund will be refunded.

## **Payment**

A 25% deposit is required for all machinery unless otherwise agreed. The 75% balance is due one week prior to delivery of machinery unless otherwise agreed by both parties.

Where parts, services or maintenance visit are required, they must be paid for in full prior to delivery or an engineer visit is booked in.

You must pay the Price within 7 days of the date of our invoice or otherwise according to any credit terms agreed between us.

Time for payment will be of the essence of the Contract between us and you.

All payments must be made in British Pounds unless otherwise agreed in writing between us.

Both parties must pay all amounts due under these Terms and Conditions in full without any deduction or withholding except as required by law and neither party is entitled to assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.

## **Delivery**

We will arrange for the delivery of the Goods to the address specified in the quotation, or your order or to another location we agree in writing.

Subject to the specific terms of any special delivery service, delivery can take place at any time of the day and must be accepted at any time between 8 am to 8 pm.

If you do not take delivery of the Goods we may, at our discretion and without prejudice to any other rights:

store or arrange for the storage of the Goods and will charge you for all associated costs and expenses including, but not limited to, transportation, storage and insurance; and / or

make arrangements for the redelivery of the Goods and will charge you for the costs of such redelivery; and/or

If redelivery is not possible as set out above, you must collect the Goods from our premises and will be notified of this. We can charge you for all associated costs including, but not limited to, storage and insurance.

Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We will not be liable for any delay in delivery of the Goods that is caused by a circumstance beyond our control or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

Offloading of any machinery is not the responsibility of Opus CNC Ltd. Any damage which occurs due to offloading of machinery is not the responsibility of Opus CNC Ltd. Should you agree to a specific delivery date and are unable to offload due to inadequate offloading equipment. Opus CNC reserves the right to charge associated costs for engineer time and travelling, as well as redelivery costs.

## **Inspection and acceptance of Goods**

You must inspect the Goods on delivery or collection.

If you identify any damages or shortages, you must inform us in writing within 7 days of delivery, providing details.

Other than by agreement, we will only accept returned Goods if we are satisfied that those Goods are defective and only after we, have carried out an inspection. (cont'd)



### **Inspection and acceptance of Goods (cont'd)**

Subject to your compliance with this clause and/or our agreement, you may return the Goods and we will, as appropriate, repair, or replace, or refund the Goods or part of them.

We will be under no liability or further obligation in relation to the Goods if:

if you fail to provide notice as set above; and/or

you make any further use of such Goods after giving notice under the clause above relating to damages and shortages; and/or

the defect arises because you did not follow our oral or written instructions about the storage, commissioning, installation, use and maintenance of the Goods; and/or

the defect arises from normal wear and tear of the Goods; and/or

the defect arises from misuse or alteration of the Goods, negligence, willful damage or any other act by you, your employees or agents or any third parties.

You bear the risk and cost of returning the Goods.

Acceptance of the Goods will be deemed to be upon inspection of them by you and in any event within 7 days after delivery.

### **Risk and title**

The risk in the Goods will pass to you on completion of delivery.

Title to the Goods will not pass to you until we have received payment in full (in cash or cleared funds) for: (a) the Goods and/or (b) any other goods or services that we have supplied to you in respect of which payment has become due.

Until title to the Goods has passed to you, you must (a) hold the Goods on a fiduciary basis as our bailee; and/or (b) store the goods separately and not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; and/or (c) keep the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.

As long as the Goods have not been resold, or irreversibly incorporated into another product, and without limiting any other right or remedy we may have, we can at any time ask you to deliver up the Goods and, if you fail to do so promptly, enter any of your premises or of any third party where the Goods are stored in order to recover them.

## Termination

We can terminate the sale of Goods under the Contract where:

- you commit a material breach of your obligations under these Terms and Conditions;
- you are or become, or, in our reasonable opinion, are about to become the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtors;
- you enter into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with your creditors; or
- you convene any meeting of your creditors, enter into voluntary or compulsory liquidation, have a receiver, manager, administrator or administrative receiver appointed in respect of your assets or undertakings or any part thereof, any documents are filed with the court for the appointment of an administrator, notice of intention to appoint an administrator is given by you or any of your directors or by a qualifying floating charge holder (as defined in para. 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of your affairs or for the granting of an administration order, or any proceedings are commenced relating to your insolvency or possible insolvency.

## Limitation of liability

Our liability under the Contract, and in breach of statutory duty, and in tort, misrepresentation or otherwise will be limited to this section.

Subject to the clauses above on **Inspection and Acceptance** and **Risk and Title**, all warranties, conditions or other terms implied by statute or common law (save for those implied by Section 12 of the Sale of Goods Act 1979) are excluded to the fullest extent permitted by law.  
(Cont'd)

### **Limitation of liability (cont'd)**

We will not be liable (whether caused by our employees, agents or otherwise) in connection with the Goods, for:

any indirect, special or consequential loss, damage, costs, or expenses; and/or

any loss of profits; loss of anticipated profits; loss of business; loss of data; loss of reputation or goodwill; business interruption; or, other third party claims; and/or

any failure to perform any of our obligations if such delay or failure is due to any cause beyond our reasonable control; and/or

any losses caused directly or indirectly by any failure or breach by you in relation to your obligations; and/or

any loss relating to the choice of the Goods and how they will meet your purpose or the use by you of the Goods supplied.

The exclusions of liability contained within this clause will not exclude or limit our liability for death or personal injury caused by our negligence; or for any matter for which it would be illegal for us to exclude or limit our liability; and for fraud or fraudulent misrepresentation.

### **Communications**

All notices under these Terms and Conditions must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).

Notices will be deemed to have been duly given:

when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient;

when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated;

on the fifth business day following mailing, if mailed by national ordinary mail; or

on the tenth business day following mailing, if mailed by airmail.

All notices under these Terms and Conditions must be addressed to the most recent address, email address or fax number notified to the other party.



## Warranty

All Oculus CO2 laser cutters come with 12 months warranty which commences on the day the customer signs off the machine. All Olympus, Olympus PRO, Olympus ATC, Pegasus ATC and Lotus CNC routers include 24 months warranty. All warranty includes labour and parts, excluding consumable items such as laser tube, mirrors and lenses.

Where an engineer visit is required we will do so within a timely manner after we have carried out our initial testing remotely. Our standard warranty does not have a given timescale for call outs, but it will be done at our earliest convenience and understand time is of the essence.

### Additionally:

- The warranty will commence on the day the machine is signed off by the customer after installation.
- The warranty is only given to the original purchaser of the product and cannot be transferred
- The warranty covers the expenses for inspecting and repairing the product during the warranty period.
- Where a repair is required, we expect full access to the machine to carry out any tests and/or repairs.
- The repaired or replaced product shall continue to be warranted for the remaining time of the original warranty period.
- The warranty shall not apply for the defect that is resulting from user error or customer damage.
- Warranty will be void if the correct level of house-keeping has not been carried out which has damaged the machine and/or caused a component failure.
- We reserve the right to charge a fee when a call out has deemed to be due to customer error and/or customer damage.

Additional or extended warranty can be taken out at the discretion of Opus CNC and an assessment has been carried out to ensure the correct house-keeping has been carried out during the original warranty period.





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### **Circumstance beyond the control of either party.**

Neither party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that party. Such causes include, but are not limited to: force majeure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question.

### **Law and jurisdiction**

This Agreement shall be governed by and interpreted according to the law of England and Wales and all disputes arising under the Agreement (including non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the English and Welsh courts.