



# Standard Terms & Conditions

18 December 2018

## INTRODUCTION

We have made every effort to formulate these standard terms and conditions in plain English to give all parties the best chance to understand what is expected. Below we use the words 'you' and 'your' for you, our customer, your company and any representatives of your company, and the words 'us', 'our' and 'we' for Accurate Instruments (NZ) Limited and our successors and assigns.

If you have any questions or concerns, please email.

[admin@accurate.kiwi](mailto:admin@accurate.kiwi).

### Purpose

The purpose of our Standard Terms and Conditions (subsequently only called Terms) is to set clear expectations between you and us, and to avoid any misunderstandings. By signing our Credit Application Form, by purchasing Goods or Services, or by making a booking of our training courses, you agree to be bound by these Terms.

### Scope

We provide Goods, Equipment Hire, Services (repair and maintenance, calibration and testing of instruments and equipment, advice), Wholesale and Training. The following Terms are structured around those areas of our business under those headings, whilst other Terms are general.

## GENERAL

This first section specifies Terms across all areas of our business.

### Quotations

If not specified otherwise, a Quotation is an offer valid for 30 days from date sent by Accurate Instruments to you, the recipient.

### Errors and Omissions Excepted

Whilst all care has been taken in the preparation of quotations, unintentional errors or omissions can sometimes occur. Accurate instruments (NZ) Ltd reserves the right in such circumstances to withdraw the quotation or submit a revision before accepting an order.

### Purchase Orders

If you have a Credit Account with us, Purchase Orders are subject to approval of our credit department. At any time, we may alter or suspend credit, refuse shipment or cancel unfilled Purchase Orders, when earlier accounts are overdue or, in our opinion, you are not creditworthy. All orders over the value of \$500 excluding GST require written confirmation.

### Prices

Unless otherwise stated in the Quotation, all our prices are quoted or stated in New Zealand Dollars (NZD), are ex-works and exclusive of GST.

- [1] At our discretion, a deposit of part or all of the price may be required from you before we provide Goods and/or Services.
- [2] If a deposit is requested by us, the amount of the deposit will become immediately due and payable by you.
- [3] If you request, and we agree to, any variation to the Goods and Services, and the cost to us is increased due to a request by you that the Goods and/or Services be provided outside normal working hours or delivered to an address other than that originally specified by you, we reserve the right to vary the price.
- [4] In respect of imported Goods that we do not hold in stock and we import on your behalf, we provide you with the option to lock in the foreign exchange rate. If you opt for locking in the foreign exchange rate, we guarantee the stated price for the Goods.
- [5] If you do not accept the option to lock in the foreign exchange rate, and if the quoted exchange rate increases by more than 2% between the date of the Quotation and the date of the applicable invoice, we reserve the right to recover any exchange rate losses with our final invoice to you.
- [6] For imported Goods, where we incur any additional charges, fees or taxes that apply to the Goods at Delivery, we reserve the right to recover such additional costs.
- [7] Where special packaging is required to deliver the Goods, we will charge such packaging to you at cost price.

### Payment

We accept the following modes of payments:

- [1] Cash Sale Accounts – Payment in full prior to pick-up or delivery.
- [2] On account - An invoice will be issued. Payments are to be made on the 20th of the following month unless specified otherwise on the invoice.
- [3] We accept cash, direct credit, most major credit cards and third party finance from QCard, LayBuy, Humm and Flexirent for payment.
- [4] Some Credit card payments may incur up to a 2.5% surcharge to cover our cost and fees with the credit card provider. We do not hold credit/debit card details on file.
- [5] Any cost incurred for the collection of outstanding payments will be charged to you. That includes the cost of a debt collection agency.

We are entitled to charge interest on overdue amounts at the rate of 2% per month from the due date up to the date of payment. This is in addition to any other rights and remedies

given to us in these Terms. Our right to charge interest on any outstanding sum continues after judgement. The charging of interest will in no way imply the granting of or extension of credit from us to you.

If you fail to make payment by the due date or exceed any credit limit set by us, we may cancel any unfulfilled orders you have placed with us and/or may withhold delivery of further orders and close your credit account, at our discretion.

You agree to pay our costs and expenses (including actual legal costs and disbursements on a solicitor and own client basis, and debt collection costs and late payment fees) in relation to the enforcement of our rights under these Terms and/or the recovery of any amount that you owe to us.

Receipt by us of any cheque or other bill of exchange or any promissory note will not be deemed to be payment until it has been honoured or cleared through the banking system into our bank account. Until such time, our rights will not be prejudiced or affected.

All payments shall immediately become due to us if:

- [1] you refuse to accept delivery of any Goods and/or Services;
- [2] we reasonably believe that the information which you have given us in your application for credit is incorrect or no longer correct and you have failed to give us correct information satisfactory to us within 5 days of our request;
- [3] you sell or otherwise dispose of any of our Goods which have not been paid for without our consent or otherwise than in accordance with these Terms;
- [4] you become insolvent or commit any act of bankruptcy;
- [5] a receiver, liquidator or statutory manager is appointed over any of your assets or undertaking;
- [6] you make or attempt to make an arrangement or composition with creditors; or
- [7] if you fail to comply with any of these Terms.

## Order Cancellations

Once an order has been placed, it may not be cancelled for any cause whatsoever without our written consent. Upon placing the order, you will be deemed to have invited us to supply or arrange for the supply of the Goods, or provide or arrange for the provision of Services, and to have agreed that your order will be irrevocable.

Changes to or cancellations of Purchase Orders will not be effective unless we accept it in writing. You are liable for any loss incurred by us in connection with any change to or cancellation of a Purchase Order by you.

Order cancellations invoked after the goods have been either shipped or collected by the customer will be subject to a restocking fee.

## GOODS

This section focusses primarily on our provision of Goods to you. All our Goods are supplied under these Terms. "Goods" shall mean all goods, chattels, or services, provided by us to you, and shall include (without limitation) the supply and/or installation of equipment or the repair of such equipment or training in the use of equipment as the case may be and all

charges for labour and work incurred by us, or any fee or charge associated with the supply of goods by us to you.

## Titles to Goods Supplied

Title to all goods and services supplied by us shall remain our property until payment has been made for such goods and services in full by you, and any cheque or other instrument of payment has been cleared and our bank account has been unconditionally credited for the full amount due.

If more than one item is recorded on our invoice to you then title to the goods recorded in that invoice shall pass from us to you only at the point in time when we receive payment in full for all goods recorded on that invoice. You shall hold goods and services as bailee only until title passes.

## Goods and Specifications

It is your responsibility to determine whether the Goods are consistent with and suitable for their intended purpose and use.

Although we take all reasonable steps to ensure that descriptions, specifications (approvals), drawings and other information regarding the Goods in catalogues, on websites and other promotional materials are correct and accurate, such information does not constitute representations or warranties by us in respect of the Goods, and we are not liable for any errors or omissions therein.

Where we manufacture or order the manufacture of any Goods, in accordance with any Specifications or with any of our Materials, we will not accept responsibility or liability (including to a third party) for any performance, accuracy or reliability of the Specifications of any Goods manufactured in compliance with such Specifications or our Materials. We are reliant on our suppliers & manufacturers for compliance with NZ electrical requirements.

You shall hold us harmless against any loss resulting from infringement of any Intellectual Property Rights of a third party arising from compliance with your Materials and/or Specifications.

## Calibration

Goods that require calibration certificates will be dated referencing the order date.

An original manufacturers' calibration certificate may be included, dated from the time the goods were calibrated at the factory. Dates between Accurate calibration certificates and Manufacturer's may vary by up to six months, to allow for shipping and stocking of imported goods.

If goods sold/ordered have not been collected for over 1-month from the original calibration date, Accurate Instruments NZ Ltd will perform a re-verification test of the calibration in order to validate the instruments accuracy before handing over the instrument. Additional costs may apply and be charged (\$30 + gst) at the discretion of Accurate Instruments NZ Ltd.

## Shipping

All purchases are shipped using the standard courier services utilized by Accurate Instruments applicable to your location, we do not guarantee the delivery time.

Please note:

- [1] To ensure that your delivery expectations are met, standard courier orders must be received before 2pm each working day. Whilst our target for standard dispatch order departure time for courier shipping is 24 hours, it can be up to 48 hours from receipt of order, subject to stock availability.
- [2] Bulk transport orders may incur an additional 24 hour dispatch delay in order to correctly package the goods for transport and book the bulk carrier for collection.
- [3] Customers' orders received with items that will be backordered due to stock shortage will be notified if the period of supply is longer than seven days.
- [4] Additional charges may apply for express shipping and same day shipping. After hours, rural deliveries and Saturday deliveries will incur additional charges.
- [5] Minimum order value is \$25.00 excluding GST and Freight.
- [6] All prices are subject to change without notice. We reserve the right to invoice at prices in effect at the time of shipment.

## Delivery

Unless expressly stated otherwise, delivery dates set out in our Quotation or otherwise agreed to in writing are calculated from the date of the Purchase Order as an estimate only. Although we will use commercially reasonable efforts to keep the delivery date stated or agreed, you will take delivery of the Goods whenever they are tendered for Delivery.

Late delivery does not entitle you to cancel a Purchase Order or any part of it, and we will not be liable for any loss resulting from a change of the delivery date(s) or late delivery.

Delivery of Goods is subject to confirmation by us on receipt of the Purchase Order. We determine the manner of delivery of the Goods.

The Goods shall be deemed to have been delivered when they are physically deposited at the address given to the Company by the Customer or consignee for that purpose, or have been collected from the Company's premises or an authorised agent of the Company. It is set up by the Company that All deliveries must be signed for upon delivery by the Customer and Customer's signature has to be obtained as proof of delivery.

In addition, where:

- a. the delivery is to a rural area (an additional two or three days delivery may be required); or
- b. the consignee has signed an Authority to leave form;

the Customer agrees that no proof of delivery or form of acknowledgment that delivery has occurred needs to be obtained, regardless of any form of tickets used.

The Company can only arrange delivery to a physical address; we do not deliver to Post box addresses.

The Company will endeavour to deliver items (correctly addressed) within the delivery target for the "said" service. However, we do not guarantee delivery of your item within these delivery targets.

Please note:

- [1] We may deliver the Goods in instalments. Each instalment will be invoiced upon Delivery.
- [2] Our delivery records will be prima facie proof of Delivery of the Goods to you.
- [3] All packages containing equipment calibrated to manufacturer specifications are shipped with a fitted on equipment white shock watch indicator and shock watch warning label attached to those packages; in the instance of a delivery with a red shock watch indicator, do not sign for delivery, return the damaged parcel in the original packaging to the courier and notify the Company immediately. If your delivery is signed for as delivered in good condition then no damage claim is accepted.
- [4] You will inspect the Goods upon Delivery and notify us within seven days of Delivery if you allege a defect or supply error. Upon such notification and at our request, you will allow us to inspect the Goods.
- [5] If, following our inspection, the Goods are deemed non-compliant with these Terms, the Purchase Order or any of your Materials/ Specifications, your sole remedy will be as per our Warranty provisions set out below.
- [6] Goods compliant with the applicable Specifications provided by you are deemed fit for their purpose and accepted by you upon Delivery.

If you are unable to take Delivery for any reason, we will be entitled to charge a reasonable fee for the storage, insurance and redelivery of the Goods as outlined below.

Any Goods Returns approved by us must be in accordance with our instructions.

## Storage

If we do not receive forwarding instructions sufficient to enable us to dispatch the Goods on your behalf within a period of 3 days after the date of notification that they are ready for dispatch, you shall take delivery or arrange for storage.

If you do not take delivery or arrange for storage, we shall be entitled to arrange storage either at our premises or elsewhere on your behalf, and all charges for storage, insurance, handling and any other loss, costs, claims, damages, expenses (including all legal costs and expenses incurred on a solicitor/own client basis) incurred by us, or any of our employees, agents or subcontractors, shall be payable by you.

If you do not take delivery within 90 days after the date of notification, we reserve the right to on-sell the Goods and invoice you for any cost and losses.

## Passing Risk and Title

Risk of damage to and loss of the Goods passes to you on Delivery. It is your responsibility to insure the Goods on and from Delivery.

Until title passes to you, you are a bailee of the Goods, and :

- [1] you must not remove or change the manner in which the Goods have been labelled by us,
- [2] you must store the Goods in a manner, which shows clearly that they are our property,
- [3] you must not modify, change, intermix or attach the Goods to any other goods or property in any way that

cannot be promptly reversed without causing damage to the Goods,

- [4] you must hold the benefit of any insurance of the Goods on trust for us
- [5] in the event the Goods are lost, damaged or destroyed, you will pay the proceeds of such insurance to us up to any outstanding amount owed by you under the Terms,
- [6] you will not sell, dispose or otherwise part with possession of the Goods,
- [7] you irrevocably authorise us to enter any premises where the Goods are kept to inspect and/or recover possession of the Goods,
- [8] you will not encumber or grant any interest in the Goods, by means of security or otherwise; and
- [9] you must notify us in writing if you are factoring your accounts.

Subject to our prior written consent, you may sell the Goods before title passes to you, in which case any proceeds resulting from such sale will be held by you in a separate account on trust for us until any outstanding amounts owed by you under these Terms have been fully paid.

In the event of a default by you, we may without limiting any other rights, demand the immediate return of the Goods to us at your expense.

### Retaking Possession

If you fail to make payment in full on due date, we shall be entitled (whether or not demand has been made and without the necessity for giving notice) to retake possession of all goods in respect of which payment in full has not been received in accordance with these Terms.

You authorise us by our agents to enter upon your premises or any other premises where the Goods supplied by us may be located for us to retake possession and you agree to indemnify us for all costs and claims incurred or suffered as a consequence of doing so.

In any case where we retake possession of goods supplied, we shall have the option in our sole discretion of electing either to allow a credit for the value of the Goods repossessed or to resell the Goods. You shall be liable upon demand being made to pay to us an amount equal to the aggregate of:

- [1] the value of the Goods or the net amount received on resale of the Goods (as the case may be),
- [2] interest cost we may have incurred,
- [3] all costs and expenses incurred on repossession and (if applicable) resale of the goods, and
- [4] an amount equal to 20% of the original sale price of the Goods as recompense for administration and re-handling the Goods less any credit allowed by us or the net amount received on resale (as the case may be), and an amount equal to any partial payments made or allocated towards the purchase price of such Goods.

Your conditional rights relating to Goods supplied by us shall cease for all purposes upon our electing to exercise our rights to repossess Goods in accordance with these Terms.

### Insurance

We carry insurance for Goods, including your Goods, when on our premises.

We rely on the limited insurance of the carriers when delivering Goods, as soon as those Goods leave our premises. If you want to increase the insurance cover during transport and delivery, you can arrange suitable additional cover at your cost.

### PPSR

For the purposes of the Personal Property Securities Act 1999 (PPSA), you grant a **security interest** to us in all presently and after acquired Goods.

You further agree that our security interest in the Goods extends to the Proceeds (as defined in clause 16 of the PPSA) of the Goods. You acknowledge that the security interest will continue until we give you a final release. You will not allow a security interest to be created or registered over the Goods in priority to the security interest held by us.

On our request, you shall promptly execute any documents and do anything else required by us to ensure that the security interest created under these Terms constitutes a first ranking perfected security interest over the Goods. We will pay all costs incurred in relation to the filing of a financing statement. You waive any right to receive a copy of a verification statement under the PPSA.

Until payment is made you will store the Goods separately from goods not supplied by us. You will not move the Goods outside New Zealand and will not do or omit to do, or allow to be done or omit to be done, anything which could adversely affect the Goods or the security interest created by these Terms.

If you do not accept our terms of PPSR for credit accounts, your credit limit may be limited to a lower credit value.

To the extent permitted by law, if you default under these Terms or fail to make any payment by the due date:

- [1] each security interest created in our favour will become immediately enforceable;
- [2] we may at any time by notice to you declare all or any part of the monies owing to us to be due and payable immediately, either upon demand or at a later date as we may in our sole discretion specify; and
- [3] we may:
  - (a) take possession of and either sell or retain the Goods;
  - (b) pay any expenses incurred in the exercise of any such powers out of revenue from, or proceeds of realisation of, the Goods;
  - (c) appoint a receiver in respect of any Goods (without your consent) and any receiver is authorised to do anything referred to in these Terms and otherwise to exercise all rights and powers conferred on a receiver by law.
- [4] You agree that you will pay or reimburse us for any costs, losses or other liabilities we incur or sustain (including actual legal costs and disbursements on a solicitor and own client basis) in connection with the exercise, enforcement or preservation, or attempted exercise, enforcement or preservation of any right arising pursuant to the security interest granted under these Terms. We:
  - (a) have the rights of a natural person in relation to the Goods;
  - (b) have all other rights conferred by law (including under part 9 of the PPSA) in relation to the Goods; and

- (c) may, in your name or otherwise, at any time, do anything that you could do in relation to the Goods.

Nothing expressed in the provisions of this Section shall limit or otherwise adversely affect the rights conferred upon us, by the PPSA.

Where we take possession of the Goods, we may sell the Goods by any means at any time and, from any sale proceeds, deduct all costs incurred in connection with the sale and all monies owed (even if not due and payable) to us by you on any account (to the extent to which we have priority over any other interested parties). We may recover from you any shortfall on any sale or attempted sale.

You agree that nothing in sections 114(1)(a), 117(1)(c), 133 and 134 of the PPSA shall apply to these Terms. You also agree that your rights as debtor in sections 116, 119, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA shall not apply to these Terms.

You agree to give us not less than seven (7) working days prior notice of a proposed change of your personal or business name.

You agree that you will pay or reimburse us for any costs we incur (including actual legal costs on a solicitor and own client basis) to register a change to or discharge of a financing statement on the Personal Property Securities Register whether or not the change was initiated by you.

We have the right to allocate as we wish any payments received from you, to any outstanding invoices/debts due in relation to Goods and/or Services supplied by us.

You agree that upon our request you shall promptly do all things (including signing any delivery docket, manual packing slip, invoice or other document) and provide all information necessary to enable us to perfect and maintain the perfection of any security interest granted by you to us (including the registration of a financing statement).

Within two working days of a written request from us, you will supply us with copies of all security interests registered over your personal property. You authorise us and/or our agent to request information from any secured party relating to any security interest which is held in any personal property that is or has been in your possession or control.

You acknowledge that you have read, understood and accept the provisions of this clause.

## Claims

Short shipments or claims for damages will only be considered if received by us in writing within 7 days of receipt of Goods.

## Warranties

The manufacturer of the Goods warrants to you, the purchaser of their products, for the period as determined by the manufacturer, from the date of the original purchase for use, that any defective product proved to be caused by faulty workmanship or materials, when used correctly and installed in the normal manner, will be repaired or replaced at the manufacturer's option at no charge, providing the product is sent to the manufacturer's factory or us, with transport charges prepaid by you. This warranty does not apply to damage or malfunction resulting from accidents, damage in transit, misuse or neglect, or fair wear and tear.

Specifically, the warranty does not cover:

- [1] components that may need replacement or repair due to normal fair wear and tear or lack of maintenance upkeep;
- [2] damage caused by accident, misuse, negligence, abuse or fire;
- [3] overloading or transport damage;
- [4] Goods that have not been returned to us in their original packaging or in a manner approved by us within the warranty period;
- [5] unauthorised alteration, modification or substitution of any parts of the Goods, installation or use of the Goods not in accordance with our instructions;
- [6] malfunction due to faulty installation or operation;
- [7] Goods that have their serial number or model number removed or defaced;
- [8] Goods that have been used for a purpose other than for what was reasonably intended for the Goods;
- [9] fault in parts that have been manufactured by someone other than us;
- [10] where an instrument needs to be calibrated as part of the warranty procedure, costs may apply.

Our warranty does not apply unless and until the Goods have been paid for in full by you.

In addition,

- [1] You acknowledge that you have entered into these Terms for business purposes and that the provisions of the Consumer Guarantees Act 1993 are expressly excluded.
- [2] All warranties, guarantees or conditions, expressed or implied that may be excluded by law are excluded to the maximum extent permitted by law.
- [3] Notwithstanding the above, our liability under this warranty and in these Terms is limited, to the extent permitted by law and at our option to:
  - a. replacing the Goods or the supply of equivalent Goods;
  - b. the repair of the Goods;
  - c. the payment of the cost of replacing the Goods or of acquiring equivalent Goods; or
  - d. the payment of the cost of having the Goods repaired;
- [4] It shall be your responsibility to check the quality of delivered Goods before their incorporation into any other work. If the quality is not in accordance with the quality contracted for and if you have reason to believe the quality of the Goods is such as to give rise to difficulties in use, processing or incorporation, you shall not allow such incorporation or use to commence unless you have received permission from us in writing.
- [5] Goods for warranty claim may need to be returned to the original selling agent if not originally sold by Accurate.
- [6] You must not misrepresent to anyone the specifications, performance or purpose of the Goods and must not make or give any representations, guarantees or warranties, in relation to the Goods whatsoever without our prior written consent.

## Refunds & Exchanges

You should ensure that your selection of Goods is the correct one.

- [1] Once we calibrate, certify and invoice new equipment, ownership passes to you. For all goods that have been left Accurate premises will be deemed as sold. If you decide to return the Goods, we cannot sell them new as they have been presold and can no longer be sold as new. Upon receipt of return, the equipment will be inspected, serviced and re-calibrated as required by us and will be offered to customers at a reduced price. The cost refunded by us will be subject to a restocking fee to cover the expense of work undertaken to prepare the goods for resale as well as a reduction in the new sale price of said goods.
- [2] Additional cost will also be charged to you in case of refunds and exchanges.
- [3] We reserve the right to refuse a refund or exchange if you are not willing to accept our loss in value or additional cost.
- [4] All returns, refunds and exchanges must be requested and accepted by Accurate Instruments (NZ) Ltd, after formal approval has been issued. Goods returned for refund without notification will not be refunded.

### Conflicts of Interest

#### Avoiding Conflicts of Interest

- [1] We warrant that as at the Start Date or Date of Supply, there is no Conflict of Interest in providing the Products or Services being supplied in this contract.
- [2] We will do our best to avoid situations that may lead to a Conflict of Interest arising.

#### Obligation to tell the Buyer

- [1] We will tell the Buyer immediately, and in writing, of any Conflict of Interest arising in relation to the supply of Products and Services in this Contract. If a Conflict of Interest does arise the Parties must discuss, agree and record in writing whether it can be managed and, if so, how it will be managed. Each Party must pay its own costs in relation to managing a Conflict of Interest.

## ECOMMERCE

This section sets out Terms relating to ecommerce online purchases through our websites and third-party auction sites.

### Company Webshop

We operate two ecommerce-based websites with the availability to purchase Goods online.

All Terms outlined under INTRODUCTION and GENERAL sections of this document apply to our ecommerce sites.

### Third party auction sites

All goods and services listed with third party internet and ecommerce auction sites follow the procedural terms and conditions laid out by the third party.

All Goods purchased online through a third-party internet and/or ecommerce auction site are shipped only and cannot be collected from an Accurate Instruments showroom, warehouse, via a company rep or ordered by phone or email, without prior arrangement or use of our click and collect option.

### Online pricing

All goods with a price advertised online are GST exclusive and subject to delivery costs unless otherwise stated.

If a price is not listed on the website, it is not available for purchase online at that time. Price upon application.

### Data Privacy

A customer's personal information provided when purchasing goods online will not be shared with third parties without customers approval to do so.

### Online purchasing security

Our websites use the latest HTTPS TLS security protocols to ensure the company meets the requirements of online security as laid out by the Payment Card Industry Security Standards Council.

### Promotions & Vouchers

Goods and services that are advertised in media as a promotion or with a redeemable voucher can be used online if:

- [1] The Good is priced and available for purchase online;
- [2] A coupon or promo code is used;
- [3] The date of the promotion or voucher has not expired;

All items that are not priced online are not subject to promotions or redeemable vouchers.

If a promotion indicates that the Goods can only be purchased online through the company operated ecommerce webpages, they cannot be purchased in the Accurate Instruments trade branch showrooms, by phone or via a company rep.

### Order processing

All orders processed online are not released until payment has been confirmed. Upon confirmation of monies received, orders are usually processed within two working days unless;

- [1] The order has been placed on a public holiday
- [2] The company is closed during the Christmas/New Year period
- [3] The product is on backorder. For all backorders, the purchaser will be advised of the delivery period time if the period of supply is longer than seven days.

This time period may be subject to product availability from suppliers, manufacturers and unforeseen shipping delays.

### Shipping

All ecommerce purchases are shipped using the standard courier services applicable to your location.

### Delivery

Delivery of the Goods will occur at the delivery point as specified by you when completing your online order and agreed to by us, and Goods are taken to have been delivered at the time

- [1] in the case of collection by you, when you or your carrier takes possession of the Goods;
- [2] or in the case of delivery by us, when the Goods are delivered to the Delivery Place, even if the premises are unattended by you at the time of delivery.

Please note,

- [3] We may deliver the Goods in instalments. Each instalment will be invoiced upon Delivery.

- [4] Our delivery records will be prima facie proof of Delivery of the Goods to you.
- [5] You will inspect the Goods upon Delivery and notify us within seven days of Delivery if you allege a defect or supply error. Upon such notification and at our request, you will allow us to inspect the Goods.
- [6] Delivery locations that are listed by NZ Post as a rural delivery can take 1-3 days longer than standard delivery times.

### **Warranties**

All Goods sold online are covered by the manufacturer's warranty to the purchaser of their products, for the period indicated, from the date of the original purchase for use.

All standard terms and conditions outlined under the warranty segment of the GOODS section of these Terms apply to the company ecommerce sites.

### **Refunds & Exchanges**

Ensure that your selection of goods is the correct one. We are not liable for receiving returned goods and refund requests if you have purchased the incorrect product.

All standard terms and conditions outlined under the refunds & exchanges segment of the GOODS section of this document apply to the company ecommerce sites.

## **EQUIPMENT HIRE**

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This section sets out Terms relating to hire and loan equipment. You acknowledge that the Hire Form you sign is an integral part of our Agreement with you.

### **Hire Period**

Hiring commences at the time shown on the face of the Hire Form which is the time the equipment leaves our store. The hiring shall terminate at the time we receive the hire goods back to an Accurate Instruments branch or otherwise notified by you by email, text or phone call, to Accurate Instruments. We are not liable for "non-use" or "off hire" during the rental period.

### **Our right to Terminate**

We may terminate the hire at any time without reason by giving you 48 hours' written notice. Such notice may be given either by personal delivery or by post to either the job address or any other address you specified on the Hire Form. In the case of notices posted to you, the period of notice shall commence to run from the time at which the notice would have been delivered in the ordinary course of the post.

We shall not be responsible to you for any loss arising as a result of such termination.

Notwithstanding termination of the hiring, you are liable to pay us a sum equivalent to hire fees for the period from the date of termination of the hiring until the equipment is actually returned to us.

### **Hiring Charges**

Equipment is hired on a daily rate, then weekly, then monthly (i.e. 28 days). A day is from 7.30am to 5pm. One week is 7 days. Weekend hires picked up Friday evening and returned early Monday morning incur a 1.5 times daily rate.

The hire period is based on the time the equipment is uplifted until the time the equipment is returned, not the time for which the equipment is used.

### **Payment**

Unless you operate an active credit account with us you will be recognised as a Cash Sale customer. Cash Sale terms for the Hire of equipment from us requires you to provide a copy of a current Driver's License and Credit Card for identification and security against the hire of the equipment taken. You shall not knowingly supply fraudulent or stolen identification or security.

By accepting the Goods or Services, you agree to the Terms as laid down by us and agree to pay any costs of collection and all legal fees incurred by us in the event of legal action becoming necessary.

Where you operate a credit account with us payment is due on the 20th of the month after the date of invoice. Where payment is not made by the due date, we reserve the right to charge default interest at the rate of 2% above our overdraft rate as it may apply.

If you do not require us to waive your responsibility for loss or damage to equipment then you must make alternative arrangements in writing with us through our credit department. No claim for credit will be recognised after one month of the date of invoice.

Long-term cash sale hires will be charged on a monthly basis unless alternative arrangements in writing have been agreed upon by our credit department. You authorise the use of your credit card supplied for security to charge for the hire.

Upon the completion of a Cash Sale hire, payment is required in full, excluding any values already paid for. We retain the right to charge any outstanding hire to the security details supplied forthwith by you as per the Terms of the hire agreement.

### **Care of Equipment and Breakdowns**

In the event of the Equipment being damaged, you shall pay us the sum equivalent to the cost of making good the said damage that has occurred. In the event of the equipment being lost or stolen, you must advise us immediately of said occurrence and shall pay us the sum equivalent to the cost of replacing the lost or stolen equipment, within 2 working days of occurrence otherwise hire fees will continue until payment is received.

You warrant that you are competent and qualified to use the equipment in the way it is designed.

Breakdowns resulting from misuse shall not in any circumstances shorten the period of hire.

It is your responsibility to satisfy yourself that the equipment is suitable for the purpose intended and that it is used in a way that complies with all statutory requirements.

The equipment does not purport to be new stock or equal to new, but when sent out all items are understood to be in good condition and fit for normal use.

We are not liable for any loss suffered by you or liability incurred by you as a result of a breakdown of the equipment however caused. Notwithstanding the foregoing, any liability attaching to us under these Terms shall be limited to the amount of hire charges due under these Terms.

In the event of breakdown, malfunction, errors or a red Shock Watch of the equipment hired, you must immediately notify us by writing.

## Injury or Damage to You, Third Persons or Property

You shall not have any claim against us for loss or damage suffered by you as a result of the use of the equipment. You will indemnify us against any claim by a third person in respect of any loss, injury or liability arising from this hiring or arising out of the use of the equipment hired by you.

## No Assignment of Hire Agreement

This agreement is personal to you and is not capable of assignment by you, and you shall not sublet the equipment to any other person, but this shall not prevent your employees using the equipment.

## Insurance

Insurance for equipment hired from Accurate Instruments is covered by the hirer (user).

## No Warranties by Owner

We make no warranty or representations as to the state, quality or fitness of the equipment for any purpose and no such warranty shall be implied by the description of the equipment on the face of this form. All implied warranties and conditions as to the state, quality or fitness of the equipment for any purpose are hereby excluded.

The person signing these Terms on your behalf warrants that (s)he has the authority to sign these Terms on your behalf and that (s)he is empowered by you to bind you to these Terms. The person so signing hereby indemnifies us against all losses and costs that may be incurred by us arising out of the person so signing the agreement failing to have such power of authority.

You shall forthwith on request by us advise us of the whereabouts of the equipment and allow us or our agent or servants reasonable time to inspect and test the equipment and for such purposes you hereby give irrevocable leave and licence to us, our servants and agents to take possession of the equipment, remove the same and to enter upon any premises where the equipment or any of the same or any part thereof may be.

In the case of you entering into this contract in a private capacity, you by entering into this contract hereby authorise the disclosure of personal information regarding your creditworthiness by any other party to us and that this personal information may be used by us to advise you of our other Goods and services. You have rights of access to and correction of personal information contained in this contract subject to the provisions of the Privacy Act 1993.

## SERVICING INSTRUMENTS & EQUIPMENT

This section outlines our Terms for servicing your instruments and equipment. All our Servicing is supplied under these Terms. The word Servicing encompasses maintenance, repairs, testing and calibration of instruments or equipment (we have called Goods below) to manufacturer's specifications or other recognised standards. If you choose to send your instrument in for servicing via courier you automatically agree to our terms and conditions.

### Initial Assessment

For evaluating and checking your Goods, service charges will apply. A minimum assessment fee is applicable to both In-House and Third Party servicing.

- [1] If the goods are not branded, or no manufacturer's serial number can be identified, or no specifications manual can be provided, we cannot certify the equipment.
- [2] We identify equipment ownership. If the equipment is found to have been reported stolen by the original owner, we reserve the right to retain the goods. We will notify you that the goods have been reported stolen to Accurate Instruments and we notify the original owner. Course of action is determined by the original owner following NZ Police guidelines for theft, sale and possession of stolen goods.
- [3] Please be aware that if you ask us to service and calibrate Goods not purchased from us that have no New Zealand-based backup and support, we reserve the right to not service or calibrate your Goods. In such cases, parts, service manuals and calibration standards may not be available.
- [4] For instruments deemed to have residual value versus servicing costs, repairs up to the value of \$200 exclusive of gst are undertaken without notification to you. This may include any repairs we identify during servicing that may not have been identified by you.
- [5] If you purchased your equipment *directly* from us, you may be entitled to a loan instrument whilst your equipment is being serviced, subject to availability. Standard hire charges apply if the loan instrument has not been returned within 2 days of us contacting you (by phone or in writing), advising you that;
  - a) your equipment is ready for collection; or
  - b) has been deemed not viable to repair; or
  - c) is awaiting a purchase order or approval for work to be completed.
- [6] Intermittent faults can be difficult to identify or diagnose, and may not be able to be repeated in our service laboratory. The minimum assessment fee will apply.
- [7] Cleaning fees may apply for heavily soiled or contaminated goods brought in for servicing.
- [8] Though calibrated and certified, once leaving our premises various factors could deteriorate the accuracy and operation of electronic Goods. Manufacturers recommend daily field checks for accuracy and functionality prior to use.

### In-House Servicing

All servicing shall be undertaken in accordance with manufacturers specifications. Should you wish us to use an alternative servicing process, please provide details of this in writing to us prior to delivering the Goods to us. Alternative processes must be approved by us and any differences in agreed processes between you and us will be resolved, agreed and documented prior to servicing commencing.

If during the servicing of your Goods it becomes apparent that the Goods are not serviceable or that a service is not economical, we will contact you for further instructions to:

- [1] arrange replacement of the Goods;
- [2] obtain instructions from you to service the Goods despite servicing not being economical;
- [3] return the Goods to you without any further servicing.

We reserve the right to refuse servicing Goods if in our professional opinion such a service would not result in a satisfactory outcome.

Should you instruct us to service, or attempt to service, Goods which we deemed to be unserviceable, or where parts are not available, we shall not be liable for any damage to the Goods from such attempts. We may also request the minimum assessment fee be paid in advance.

When sending in Goods to be serviced we will recalibrate and certify again if within three months of its due date for calibration. Outside of the three months, we will contact you for authorisation first, except where the repairs necessitate a recalibration.

### **Servicing by Third Party**

Where we cannot service your Goods, we liaise with third party service agents and other external providers to have your Goods serviced.

We will inform you about third party servicing prior to sending your Goods to the third party provider and will only send it on with your express permission.

All cost of transport, the third party servicing cost and our cost, including but not limited to initial assessments, packaging and handling, will be passed on to you.

### **Delivery/ Pick up of Serviced Goods**

We will notify you when your Goods have been serviced and when they are ready for collection.

Where you opt to pick-up your Goods, we will hold those in safe storage for up to 2 weeks. After 2 weeks, we reserve the right to charge you a holding fee.

### **Failure to pick up or receive Goods**

Where you opt to pick-up your Goods and you do not do so, and/or where you refuse to take Delivery of the Goods, we reserve the right to sell the Goods on your behalf to recover costs after 90 days in storage.

We will notify you as soon as we have sold the Goods to either pay you any monies the sale of your Goods has resulted in over and above our cost, or we will issue an invoice for immediate payment, where the sale of the Goods has not completely covered our costs.

Such costs include, but are not limited to our servicing fees, third party servicing fees, delivery and transportation cost, storage cost and administrative fees for communication and management of the sale.

We reserve the right to retain any goods you deliver to us as security against any other outstanding debt. We shall notify you by phone of this at the time, and if after 90 days the debt is still not cleared, we shall further notify you in writing that the Goods may be sold to recover costs.

Some calibrated or certified instruments such as gas detectors deteriorate over time whilst in storage. If this period is longer than 1-month, Accurate Instruments NZ Ltd will perform a re-verification bump test of the calibration in order to validate the instruments accuracy before handing over the instrument. Additional costs may apply and be charged (\$30 + gst) at the discretion of Accurate Instruments NZ Ltd.

Where parts may not be available, we do not hold service goods to wait for a part to become available.

### **Shockwatch**

All sensitive Goods are shipped with a Shock Watch, monitoring the status of the Goods during transport and delivery. We do not accept any liability when the Shock Watch shows inappropriate handling or when the Shock Watch has been removed, tampered with or is red on receipt of delivery.

Accurate Instruments (NZ) Ltd is not liable for goods received with a red shockwatch.

### **Calibration Certificates / IANZ Reports**

A calibration certificate and/or IANZ report is provided on applicable Goods where specific criteria are met. The certificate and/or report will include specific information as required and may be provided in a simplified format.

Furthermore, the certificate and/or report may include additional information on the instruments age, use, patterns, state and such like. The certificate and/or report will be provided with the Goods upon its return to you.

We only issue a statement of conformity if requested by the customer.

Reprints of certificates are available, but we reserve the right to charge for reprints.

The standard calibration interval recommended by manufacturers is usually twelve (12) months. Some Goods are recommended for a shorter or longer interval, but this will be discussed with you at the time you deliver the Goods to us.

In agreeing to these Terms and Conditions, you agree to manufacturers recommended service and calibration intervals.

An original manufacturers/third party calibration certificate may be included if goods are serviced by a third party, if deemed a requirement.

### **Warranty**

A 90 day service warranty applies covering workmanship and parts supplied.

NOTE: Where an instrument needs to be calibrated as part of the warranty procedure, costs may apply.

### **WHOLESALE**

- [1] Wholesale hours are from 8:30am to 4:30pm on weekdays.
- [2] You must formally advise if same day dispatch is required.
- [3] All orders are to be accompanied by an official Purchase Order, either by email or fax. Phone orders are not accepted.
- [4] Orders can be collected from the warehouse by the Wholesale Company only. Advanced notification is required for pickup as well as an email/fax of the Purchase Order, so that the order can be picked, checked and is ready for collection upon arrival.
- [5] Reseller's own customer collections and pickups are not permitted.

- [6] Not all products offered by us are available for Wholesale resale.
- [7] Unless an agreement exists with the reseller, freight costs apply for all deliveries.
- [8] We do not send direct to the customers of resellers, unless prior agreements are in place.
- [9] We accept no responsibilities for courier services, delivery times and their performance. We endeavour to use the most reliable, cost effective and efficient services available.
- [10] Authorisation and approval is required in writing for returned goods prior to said goods being returned. A restocking fee will apply.

All Wholesale stock is kept in our Auckland Wholesale Warehouse (192 Marua Road, Mt Wellington, Auckland 1051). No other locations hold stock for Wholesale supply.

## TRAINING

Some of our training programmes and courses are delivered in conjunction with recognised tertiary academic establishments such as Ara Institute of Canterbury. The following section outlines our specific terms and conditions for training.

### Ara Institute of Canterbury Enrolment Requirements

A selection of our training courses are provided by Ara Institute of Canterbury Ltd. In order for you to enrol in their courses, we must have your completed enrolment form when you book a course. You can obtain an enrolment form from our training department.

#### STUDENTS - NZ RESIDENTS/ WORKING VISAS

If you are not a NZ citizen, you need to prove your residential status when enrolling with Ara Institute of Canterbury Ltd. A Permanent Resident is not a NZ Citizen, and we have to provide proof of your Permanent Residency status in order to enrol you into the New Zealand education system.

### Our Enrolment Requirements

Our course booking form must be completed prior to training with us.

### Payment

- [1] Cash Sale Accounts - An invoice will be issued to you prior to training, which must be paid in full 2 weeks prior to the commencement of the course. Any costs associated with training incurred thereafter will be invoiced upon course completion.
- [2] On account - An invoice will be issued after completion of the training. Payments are to be made on the 20th of the following month unless specified otherwise on the invoice.
- [3] Any cost incurred for the collection of outstanding payments will be charged to you.

### Cancellations

The following fees will apply when attendees choose to cancel their booked places on a course:

- [1] Cancellation received 2 weeks before the course – no charge
- [2] Cancellation received 1 week before the course – 20% of the course cost

- [3] Cancellation received 1 working day before the course - 50% of the course cost
- [4] Cancellation on or after the day of the course – no refund – total course cost applies.
- [5] Any costs incurred on your behalf are charged to you at cost plus a 15% administration and handling fee if no refund is supplied to Accurate Instruments (NZ) Ltd.

We reserve the right to cancel courses if necessary. Every effort will be made to give attendees no less than 5 working days' notice of cancellation. We will not be responsible for any costs incurred due to course cancellation.

### Changing your Course Booking (Rebooking)

Attendees are entitled to one complimentary re-book, if this is made prior to the day of the course. A rebooking on the day of the course and subsequent re-bookings may incur a fee.

### Travel and Accommodation

- [1] If not specified otherwise, our proposals do not cover any cost of travel. Cost of travel will be charged at actual cost plus a 15% handling and administration fee.
- [2] Trainers may be located in different areas throughout the country and need to travel to the location of the course. You will be informed if this is the case and travel costs will be payable.
- [3] Copies of receipts for cost of travel are provided on request. For vehicle travel reimbursement, we charge as per NZ Legislation rates per kilometre and a travel time for trainers and advisors is \$95/hr plus GST.
- [4] Any costs incurred on your behalf are charged to you at cost plus a 15% administration and handling fee.
- [5] Should you wish to organise flights or accommodation for the trainer, please inform us. We will work together with you and the trainer to establish the correct travel itinerary.

### Course Material

Each person that sits the course is issued with the relevant course book. The book is included in the course cost. All participants will be notified prior to course commencement if they are required to bring any extra material or instruments to the course.

All course material remains our property.

### Attendance

Where a start time for a training course is provided, this is the actual start time. Times are given to ensure that the learning required for the course can be delivered in the time specified.

Trainers have the right to refuse entry to any attendee where a course is already underway.

Mobile phones are required to be turned off during this time.

Should a student not be able to attend the course in its entirety, we suggest they book at a later date. Students who do not attend courses in full will not be issued certification.

You must comply with all health and safety rules and regulations and any other reasonable security requirements that apply at the premises at which the training courses are provided. Safety Boots and appropriate PPE are required on most of our training courses. You will be advised prior to attending on what is required.

In order to ensure the efficiency of our deliverables, courses are held either onsite or in our training establishments. Students are required to attend Statement of Attendance and Attainment courses in person, to ensure suitable engagement in both the practical and/or theoretical learnings. Upon conclusion of the course each student will be evaluated by either a practical and/or written test. For this reason, we cannot conduct any of our Statement of Attainment or Attendance courses online.

These conditions of participation are mandatory.

\*Online course modules are excluded from this condition.

## Statements

On the successful completion of our training courses and on full payment of all fees, students will be issued with a Statement of Attendance by us. Please note that all students must have a 90% pass rate in order for a Statement of Attendance or Attainment (ARA) to be issued.

## Liability

We do not accept responsibility for anyone acting as a result of information or views expressed on training courses, including course material. Opinions expressed are those of individual trainers and not necessarily ours. Participants should take professional advice when dealing with specific situations.

## Confidentiality

You shall keep confidential all Confidential Information we may provide to you and you shall not use, disclose or otherwise provide the Confidential Information to any third party without our prior written consent.

Where disclosure of the Confidential Information to employees or agents is required in order to supply the Products and/or Services, you shall ensure that such employees and agents are bound by equivalent obligations of confidentiality and non-use as set out in these Terms.

## Copyright

You agree and acknowledge that nothing within these Terms will give you any right, title or interest in any Intellectual Property belonging to or licensed to us.

You agree that all New Intellectual Property shall be our sole property and that you shall have no right, title or interest in such New Intellectual Property unless otherwise agreed.

If requested by us, you shall execute all documents and do all things necessary to give effect to our ownership of the New Intellectual Property.

Our training material, including classroom training manuals, and training exercises, are protected by copyright, and cannot be used by you, or any other party, without our express written permission.

## General

### Dispute Resolution

Any dispute relating to the supply of the Goods and/or Services or otherwise in relation to our Terms shall in the first instance be dealt with by promptly giving notice of such dispute to each other in writing.

We and you shall endeavour to resolve the dispute in good faith prior to seeking resolution through mediation or the Courts, provided that this shall not restrict our pursuing usual debt collection procedures for non-payment of any invoice, nor seeking urgent relief for breach of these Terms (e.g. disclosure of Confidential Information or misuse of Intellectual Property).

### Limitation of liability

[1] Notwithstanding anything set out in these Terms, we will be under no liability whatsoever to you for any indirect loss, consequential loss or damage, loss of profit, loss of bargain, loss of business opportunity or exemplary damages or losses suffered by you or any other person arising out of or flowing from any pre-contractual misrepresentation, forecast or breach of these Terms, or other dispute arising out of these Terms.

[2] Notwithstanding anything else in these Terms, in the event that we are found liable under these Terms for any reason whatsoever (including the loss set out above), our liability will be limited to the price of the specific Products and/or Services that the liability relates to and shall be inclusive of all claims made against you by any third party.

### Indemnity

You shall indemnify us against all costs (including full costs between solicitor and client), claims, liabilities, expenses and demands suffered or incurred by us arising out of or relating to the supply of the Products and/or Services to you pursuant to these Terms including any claims made against you by any third party.

### Notices

Any notices required to be given by you and us pursuant to these Terms shall be given at the addresses set out in the Purchase Order or as otherwise notified in writing by you or us from time to time.

### Force Majeure

We shall not be liable for failure or delay in supply or delivery occasioned by strike, lockout, Act of God, shortage of stocks, shortage of labour, breakages of machinery, delays in transit, legislative, governmental or other prohibitions or restrictions, fire, flood or any other cause whatsoever (whether similar or not to the foregoing) beyond our reasonable control.

### Non-Waiver

No failure by us to enforce any of our rights under these Terms shall be considered a waiver of those rights and no failure to enforce any subsequent breach of these Terms shall be considered a waiver of those rights in respect of a subsequent breach of any term or condition.

### Severability

If any provision of these Terms is, or becomes, unenforceable, illegal or invalid for any reason, the relevant provision shall be deemed to be modified to the extent necessary to remedy such unenforceability, illegality or invalidity.

### Amendments

No amendment or variation of these Terms in respect of Goods or Services already ordered or supplied shall be binding unless it is in writing and signed by you and us. However, we reserve the right to amend and update those Terms from time to time.

by publication on our website or general notice to you and our customers.

#### **No Assignment**

You may not assign or purport to assign any of your rights or obligations under these Terms without our prior written consent.

#### **Governing Law**

These Terms are to be governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the Courts of New Zealand.