

# Abacus Playgrounds Ltd Conditions of Sale

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## 1 Definition

- a. Buyer – the person, firm, Company or Public Authority placing an order which is accepted by Abacus Playgrounds Ltd.
- b. Abacus / Abacus Playgrounds Ltd – Abacus Playgrounds Ltd – Part of the Abacus Lawrence Group Ltd.
- c. Conditions – the conditions of sale outlined below.
- d. Order – the order for goods or services placed by the buyer, oral and written.
- e. Goods – the products or services which shall be provided by Abacus and to which this quotation, order acknowledgement or invoice refers including products, installation, civil engineering or any other works. No works or services are included by inference.
- f. Installation – The agreed date for works to be undertaken between the buyer and Abacus.
- g. Colour of Goods – Abacus standard RAL colours unless specifically stated on the quotation, order acknowledgement or invoice.
- h. Completion – the time of delivery and completion of the delivery note by the Buyer or Buyers authorised representative; where installation or civil engineering forms part of the contract, the signing of the installation acceptance by the Buyer or Buyers authorised representative excluding any maintenance or defects period or close of business two working days following notification of completion to the buyer when Buyer or Buyers representative have not advised any reasonable reason for non completion in writing to Abacus.
- i. Price – the agreed cost of the goods as per quotation and any oral or written variations given by the Buyer or Buyers authorised representative.
- j. Quotation – Document issued by Abacus incorporating the specifics of the goods to be supplied to the buyer.
- k. Credit Account – a 30 day trade credit account opened by Abacus for the Buyer within 21 days of order following receipt of satisfactory credit score for whole value of buyers order(s) as advised by Abacus bank credit insurers.
- l. Wasted Day Charge – A charge of £1,200.00 + VAT.

## 2 Conditions

- a. Any quotation given to the buyer, in whatever format, oral, written or electronic, is given subject to these conditions.
- b. These conditions are the only conditions under which Abacus shall provide Goods to the Buyer. Any conditions the Buyer attempts to impose which contradict these conditions will not be accepted without the specific agreement as defined in 2.d. below. Acceptance of goods or services shall constitute acceptance of these conditions.
- c. These conditions embody the entire understanding of the parties and supersede any prior promises, representations, undertakings or implications.
- d. Changes to these conditions will only be allowed if specifically agreed in writing by a Director of Abacus.
- e. Following acceptance of the Abacus quotation, any variation must be confirmed in writing and may be subject to additional costs.
- f. Any drawings, sketches, illustrations, layouts, specifications or other detail provided by Abacus and all intellectual property rights therein will remain the property of Abacus at all times.

## 3 Pricing

- a. All prices quoted shall be subject to Value Added Tax and any other Government duty or tax applicable at the time of invoice.
- b. All quotations are valid for 30 days unless specifically stated in writing on the quotation.
- c. All quotations are net and do not include for Main Contractors Discounts (MCD) or retentions. Should either or both be required, prices should be grossed up accordingly.

## 4 Delivery

- a. Abacus shall not be liable for any delay in delivery howsoever caused.
- b. Abacus reserve the right to invoice the Buyer on the date specified by the Buyer for the delivery of goods if delivery is delayed by the buyer at any time following order. Storage charges may be applied if delay is longer than one month.
- c. Abacus must be notified in writing within 3 working days of the delivery of any shortages or damages to the goods. Notification after this period will be beyond reasonable time for advice and subject to additional cost as defined in 2.e. above.

## 5 Specific clause relating to installation & civil engineering quotations and invoices

- a. Abacus shall not be liable for any delay in installation howsoever caused.
- b. Should installation works be prevented by the buyer or buyers authorised representative for any reason within 24 hours of any installation day, Abacus reserves the right to charge a wasted day charge. The buyer agrees to pay this charge within the agreed payment terms as per 9a or 9b.
- c. Should the buyer require any site specific work permits, risk or method statements or employee or sub-contractor certifications to allow works, these should be requested by the buyer a minimum of 28 days before works commence on site or at the time of order if works are to be undertaken within 28 days. Wasted day charges may be applied as detailed in 5b above if such requests are not received within specified times.
- d. Abacus allows for the provision of 1m high plastic mesh fencing to all installation works unless specifically shown otherwise within the quotation. Due to the knowledge of local conditions, it is the buyers responsibility to provide and maintain any other suitable security system necessary to reduce the opportunity for incidents of any type.
- e. All installation or civil engineering quotations are given assuming unrestricted good hard vehicular access to site, soft ground conditions on site which require no machines to dig foundations and no underground obstructions or any materials which cause a hard dig. We have assumed the formation of the ground that we will be working on and gaining access across will be capable of bearing the weight of our work vehicles, delivery vehicles and any specialist equipment including but not limited to excavators and paving machines as required.
- f. All installation or civil engineering quotations are given in good faith and without digging into the ground. Once works commence, should site conditions require additional works or materials to meet product performance requirements or safety standards, clause 5h will apply.
- g. It is the Buyers responsibility under the CDM regulations to provide a comprehensive site survey including the provision of detailed under / over ground service information (electricity cables, gas pipes etc). No liability shall be accepted by Abacus for damages to services or consequential actions if comprehensive site survey is not accurate or not provided by the buyer.
- h. If any variations to the above site conditions or works are required to meet product performance requirements or safety standards are found to be in evidence, the Buyer will immediately be notified by telephone and as soon as possible in writing and invited to site to view the variation. Abacus reserve the right to charge at cost plus 35% of any costs incurred during the delay in the Buyer attending site and agreeing required variations. Abacus reserve the right to charge at cost plus 50% of any additional costs of works or materials required, plant hire and any other associated costs required to complete installation to Abacus product performance requirements or safety standards as required.
- i. It is the Buyers responsibility to ensure that Goods ordered fit the site intended for use. Abacus shall not be held responsible where Goods have been ordered that subsequently do not fit, howsoever caused. A separate quotation and order will be required to enable modification.
- j. Reinstatement to access route or works area is not included within our installation rates unless specifically detailed within the quotation.

## Cancellation / Return

- a. Abacus will proceed with all necessary procurement to fulfil the terms of the contract on receipt of the Order.
- b. All equipment orders including stocked items, custom built, bespoke goods or any item procured from a third party supplier cannot be cancelled or returned.
- c. Abacus reserve the right to charge a cancellation charge of up to 95% of the Price for cancellations or returns.
- d. A re-stocking charge of 35% of the Price will apply to all returned Goods.

## 7 Quality / Limited Liability

- a. Abacus guarantees that all Goods manufactured by Abacus will be in accordance with its latest specifications or approved drawings.
- b. On Goods not manufactured by Abacus we give no warranty apart from that given by the original manufacturer. Details of products that fall into this clause within specific quotations can be supplied on request.
- c. All Civil Engineering works are guaranteed for twelve months from date of Completion.
- d. Abacus offer a comprehensive product structural guarantee, details of which are available on request.
- e. Abacus reserves the right to vary the specification of any product without notice, provided that this does not affect conformity to the appropriate safety standard or materially impact upon the durability or finish of the product.

## 8 Risk and Title

- a. Risk on all goods shall pass to the Buyer on delivery of Goods to site or depot nominated orally or in writing by the Buyer on both supply only and supply and installation contracts. Abacus accept no responsibility for site or depot security other than reasonable site health and safety precautions. Additional site security or secure storage can be provided if specifically requested and will be charged to the Buyer at cost plus 35%. The Buyer will be responsible for all direct and consequential costs for maintaining and repairing / replacing vandalised items as required.
- b. Title of Goods shall only pass to the Buyer when payment is made in full of the Price thereof together with any and all other sums owing to Abacus in whatever nature are made, including retentions sums due following a defects period.
- c. The Buyer may sell and deliver the Goods to a third party in the course of the Buyer's business only on condition that until payment is made in accordance with 8.b. is made. The Buyer shall hold or assign all proceeds of such sales for Abacus and not assign without written authorisation from a Director of Abacus.
- d. Abacus reserve the right to repossess any Goods in respect of which payment is overdue immediately on giving notice in writing, fax or electronic format of its intention to do so, from wherever stored and thereafter to re-sell at the prices consistent with immediate sales; monies obtained will be credited to the Buyer to offset in whole or part the outstanding debt, less costs incurred in the repossession and re-sale. Any shortfall in the monies received shall remain the responsibility of the original Buyer.

## 9 Payment

- a. For buyers who hold a 30-day Credit Account with Abacus, invoices are raised on completion, (subject to clause 9c) and are due for payment within 30 days from the invoice date.
- b. Credit Accounts cannot be used for orders under £250 +VAT. Payment must be made with order.
- c. For buyers who do not hold a 30-day Credit Account, payment is required in cleared funds before manufacturing or procurement of the Goods or services commences. Manufacturing or procurement lead times commence on receipt of cleared funds and not the original order date.
- d. Where the installation of any order spans a calendar month end, it is the policy of Abacus to submit stage invoices worth 90% of completed works for payment which will become due for payment in accordance with 9.a. above.
- e. In the case of Orders where delivery is delayed by the Buyer an invoice for the value of the Goods will be issued to the Buyer on the date requested by the Buyer delivery, or if no date specified on the order, the date which corresponds to the minimum delivery lead time shown on the Abacus quotation which formed the basis of the contract accepted by the Buyer. Payment will become due in accordance with 9.a. above. Any additional storage and administrative charges will be invoiced to the Buyer at cost plus 35% and become due for payment in accordance with 9.a. above.
- f. In the case of Orders where delays are incurred by Abacus prior to or during the completion of the contract due to situations beyond the control of Abacus such as works by others which have not been completed, weather or any other reasonable cause, an invoice will be issued to the Buyer for the goods on the agreed delivery date as specified in 9.d. and any labour costs incurred based on an estimate by Abacus of the works completed to date. These costs and any additional storage, administrative and plant hire charges will also be included on this invoice at the rates shown on the quotation or at cost plus 35% and become due for payment in accordance with 9.a. above.
- g. Abacus reserves the right to charge interest on overdue accounts at a rate of 15% over base rate in force from time to time of NatWest Bank Plc accruing on a daily basis.
- h. Where discount terms have been offered and account becomes overdue all discounts or incentives will be forfeited. A further invoice will be issued to the Buyer and the account will be charged at the rate quoted before any discount is applied.
- i. Any charges levied by bankers or collection agencies for dealing with dishonoured cheques or payments or incurred during collection of overdue accounts will be invoiced to the buyer and fall due immediately for payment.
- j. For Buyers who hold a 30 day Credit Account with Abacus, late payment may result in the removal of credit terms for future orders.

## 10 Force Majeure

- a. Abacus shall not be liable to the Buyer for failure to deliver Goods where such failure is due or partly due to any cause outside the reasonable influence of Abacus, including but not limited to the shortage of raw materials, reduction in or unavailability of power, breakdown of machinery, shipping delays, riot or civil commotion, acts of war or acts of God.

## 11 Law and Jurisdiction

- a. These conditions are governed by English Law. Any dispute arising out of these Conditions of Sale shall be submitted to the exclusive jurisdiction of the English Courts.

## 12 General

- a. If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or part, the validity of the other provisions of these Conditions of Sale and the remainder of the provision in question shall not be affected.
- b. No waiver by Abacus of any breach of the contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- c. These conditions constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in writing by the parties. All other terms and conditions express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.
- d. Any notice required or permitted to be given by either party to the other under these conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may be relevant at the time having been notified pursuant to this provision to the party giving notice.
- e. A person who is not party to these conditions has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these conditions but this does not affect any remedy or right of any third party which exists or is available apart from that Act.

As part of the Abacus Lawrence Group Ltd, we provide surfaces for a wide range of customers and applications. Our quotations are prepared with the following conditions and assumptions in addition to our conditions of sale.

### General conditions and assumptions applicable to all surface quotations

- Our quotation is based on works being carried out in one continuous visit, with access to within 30 linear metres of the site for an 18 tonne lorry.
- For projects where the only works we are undertaking is surfacing, should the site not be ready for us when we arrive or if the bases / edgings have been incorrectly prepared, we reserve the right to charge for the loss of a standard day at a rate of £1,200.00+VAT.
- Areas surface are subject to re-measurement on completion and any increase in depth or surface area laid will be charged at a proportionate rate.
- Our play surfaces have been tested and meet the recommendations set out in British and European standards BS7188 and EN1177. We guarantee our surfaces meet these standards at the time of installation and cannot be held responsible for future performance to these standards due to factors beyond our control such as maintenance, misuse, damage/spills or sub structure degradation. Our price does not allow for any testing on completion.

### Wet Pour

*Additional conditions and assumptions when quoting for Wet Pour surfaces onto engineered sub bases / edgings.*

- Black Wet Pour is guaranteed for 3 years and Coloured Wet Pour for 5 years, this guarantee excludes any failure due to drainage and / or sub structure. Due to natural movement in rubber polymers we exclude edges and joints from our standard guarantee. We cannot guarantee the bonding of old rubber with new. Old rubber may continue to shrink and cause joint or edge splitting. Please request a copy of our guarantee certificate for full provisions/exclusions.
- Black EPDM is a recycled rubber product emanating primarily from the automotive industry and as such contains carbon and other compounds which may stain susceptible materials. For this reason, we do not recommend this product be laid in areas intended for use by toddlers and young children who may crawl/sit on the surface.
- Aromatic Polyurethane Binders are susceptible to U. V. discolouration, the degree of which can vary greatly due to the atmospheric conditions prevalent at the time of laying. This discolouration may, in certain circumstances, affect the finished colour of the surface particularly where a lighter colour has been chosen. Any discolouration that may occur is temporary and will wear off over time. This applies to all surfaces installed using polyurethane binders. Mirrors can focus the suns heat and can damage surfaces. Please ensure any mirrors do not direct the heat onto the surface. We cannot be held responsible for any damage because of mirrors.
- It is the client's responsibility to ensure that the thicknesses quoted for are sufficient for the critical fall height of the equipment that it is to serve. It is also the client's responsibility to ensure that the product requested is fit for purpose. Any repairs carried out to existing surfaces cannot be guaranteed.

*Additional conditions and assumptions when quoting for Wet Pour surfaces onto non-engineered ground.*

- All general conditions and assumptions and additional conditions and assumptions when quoting for Wet Pour surfaces onto engineered sub bases / edgings.
- Some or all of the Wet Pour quoted is to be installed onto existing ground conditions and undulations. No levelling or base preparation work has been included in our quotation. As the surface is to be laid onto / over existing surfaces, no guarantee can be given in relation to strength or drainage performance of the sub structure and the finished surface will follow existing contours. Should this be of concern, an engineered sub base should be installed prior to rubber installation. Adhesion of wetpour to existing surface including cut and chase edge, note: this guarantee excludes failure caused as a result of a structural instability in the existing surface.

*Additional conditions and assumptions when quoting for Wet Pour repairs.*

- All general conditions and assumptions and additional conditions and assumptions when quoting for Wet Pour surfaces onto engineered sub bases / edgings. No warranty is offered for wet pour repairs.
- Some or all of the Wet Pour quoted is to be installed onto existing ground conditions and undulations. No levelling or base preparation work has been included in our quotation. As the surface is to be laid onto / over existing surfaces, no guarantee can be given in relation to strength or drainage performance of the sub structure and the finished surface will follow existing contours. Should this be of concern, an engineered sub base should be installed prior to rubber installation.

### Bonded Rubber Mulch

*Additional general conditions and assumptions when quoting for Bonded Rubber Mulch surfaces onto engineered sub bases / edgings.*

- Bonded Rubber Mulch is guaranteed for 3 years (provided wear pads are installed into areas of high use), this guarantee excludes any failure due to drainage and / or sub structure. Please request a copy of our guarantee certificate for full provisions/exclusions.
- Bonded Rubber Mulch is a recycled and colour coated SBR rubber product emanating primarily from the automotive industry and as such contains carbon and other compounds which may stain susceptible materials meaning that colour run and carbon blacking may occur. For this reason, we do not recommend this product be laid in areas intended for use by toddlers and young children who may crawl/sit on the surface. .
- Aromatic Polyurethane Binders are susceptible to U. V. discolouration, the degree of which can vary greatly due to the atmospheric conditions prevalent at the time of laying. This discolouration may, in certain circumstances, affect the finished colour of the surface particularly where a lighter colour has been chosen. Any discolouration that may occur is temporary and will wear off over time. This applies to all surfaces installed using polyurethane binders. Mirrors can focus the suns heat and can damage surfaces. Please ensure any mirrors do not direct the heat onto the surface. We cannot be held responsible for any damage because of mirrors.
- It is the client's responsibility to ensure that the thicknesses quoted for are sufficient for the critical fall height of the equipment that it is to serve. It is also the client's responsibility to ensure that the product requested is fit for purpose. Any repairs carried out to existing surfaces cannot be guaranteed.

*Additional conditions and assumptions when quoting for Bonded Rubber Mulch surfaces onto non-engineered ground.*

- All general conditions and assumptions and additional conditions and assumptions when quoting for Bonded Rubber Mulch surfaces onto engineered sub bases / edgings.
- Some or all of the Bonded Rubber Mulch quoted is to be installed onto existing ground conditions and undulations. No levelling or base preparation work has been included in our quotation. As the surface is to be laid onto / over existing surfaces, no guarantee can be given in relation to strength or drainage performance of the sub structure and the finished surface will follow existing contours. Should this be of concern, an engineered sub base should be installed prior to rubber installation. Adhesion of Bonded Mulch to existing surface including cut and chase edge, note: this guarantee excludes failure caused as a result of a structural instability in the existing surface.

*Additional conditions and assumptions when quoting for Bonded Rubber Mulch repairs.*

- All general conditions and assumptions and additional conditions and assumptions when quoting for Bonded Rubber Mulch surfaces onto engineered sub bases / edgings.
- Some or all of the Bonded Rubber Mulch quoted is to be installed onto existing ground conditions and undulations. No levelling or base preparation work has been included in our quotation. As the surface is to be laid onto / over existing surfaces, no guarantee can be given in relation to strength or drainage performance of the sub structure

and the finished surface will follow existing contours. Should this be of concern, an engineered sub base should be installed prior to rubber installation.

### SUDS-Bond

*Additional general conditions and assumptions when quoting for SUDS-Bond onto engineered sub bases / edgings.*

- Abacus Playgrounds Ltd guarantees its SUDS-bond® permeable surfaces for a period of 5 years from date of installation to be free from defects due to faulty materials and workmanship in the manufacture and installation of the surface, please request a copy of our guarantee certificate for full provisions/exclusions.
- SUDS-bond incorporates SBR rubber granules which can colour run and carbon blacking may occur.
- SUDS-bond™ is suitable for pedestrian, bicycle and equestrian traffic. The full strength of the surface will not be realized for 3 days after installation therefore it is advisable to restrict use during this time. It is the client's responsibility to ensure that the product requested is fit for purpose.
- The new surface will follow the levels and contours of the new substrate. We cannot accept liability for any movement in the substrate. Substrate movement may cause cracking of the new surface. Installation onto standing puddles of water will indemnify any guarantee.
- Aromatic Polyurethane Binders are susceptible to U. V. discolouration, the degree of which can vary greatly due to the atmospheric conditions prevalent at the time of laying. This discolouration may, in certain circumstances, affect the finished colour of the surface particularly where a lighter colour has been chosen. Any discolouration that may occur is temporary and will wear off over time. This applies to all surfaces installed using polyurethane binders. Mirrors can focus the suns heat and can damage surfaces. Please ensure any mirrors do not direct the heat onto the surface. We cannot be held responsible for any damage because of mirrors.
- SUDS-bond meets the accessibility requirement for wheelchair users, prams and buggies.
- Any repairs carried out to existing surfaces cannot be guaranteed.

*Additional general conditions and assumptions when quoting for SUDS-Bond onto non-engineered ground.*

- All general conditions and assumptions and additional conditions and assumptions when quoting for SUDS-Bond onto engineered sub bases / edgings.
- Some or all of the SUDS-Bond quoted is to be installed onto existing ground conditions and undulations. No levelling or base preparation work has been included in our quotation. As the surface is to be laid onto / over existing surfaces, no guarantee can be given in relation to strength or drainage performance of the sub structure and the finished surface will follow existing contours. Should this be of concern, an engineered sub base should be installed prior to rubber installation.

### Resin Bound Gravel

*Additional general conditions and assumptions when quoting for Resin Bound Gravel onto engineered sub bases / edgings.*

- Abacus Playgrounds Ltd guarantees its resin-bound permeable surfaces for a period of 15 years from date of installation to be free from defects due to faulty materials and workmanship in the manufacture and installation of the surface. Please request a copy of our guarantee certificate for full provisions/exclusions.
- Aromatic Polyurethane Binders are susceptible to U. V. discolouration, the degree of which can vary greatly due to the atmospheric conditions prevalent at the time of laying. This discolouration may, in certain circumstances, affect the finished colour of the surface particularly where a lighter colour has been chosen. Any discolouration that may occur is temporary and will wear off over time. This applies to all surfaces installed using polyurethane binders. Mirrors can focus the suns heat and can damage surfaces. Please ensure any mirrors do not direct the heat onto the surface. We cannot be held responsible for any damage because of mirrors.
- All quotations are based on standard gravel binders that may yellow over time. Non-yellowing binder is available on request at an additional cost.
- It is the client's responsibility to ensure that the product requested is fit for purpose. Any repairs carried out to existing surfaces cannot be guaranteed.

### Polymeric Sports Surfaces

*Additional general conditions and assumptions when quoting for polymeric sports surfaces.*

- Abacus Playgrounds Ltd guarantees the synthetic surface namely 'Polymeric Type 4', against defects in materials and workmanship on the shockpad for a period of 5 years and the spray coat for a period of 3 years from the date of surface completion. Abacus Playgrounds guarantees the synthetic surface namely 'Polymeric type 3', against defects in materials and workmanship on the shock pad for a period of 5 years and the spray coat for a period of 12 months from the date of surface completion. Please request a copy of our guarantee certificate for full provisions/exclusions.
- Prices are based on works being carried out in one continuous visit, with access to within 30 linear metres of the site for a heavy goods vehicle. We require dumper and forklift access no smaller than 1700mm width from the above mixing truck position to the work area and is good and on reasonably level ground.
- Site security may be required for the curing period and this is to be provided by client. Site security during and post installation has not been allowed for within our rates unless specifically detailed within quotation wording.
- Polymeric sports surfaces are usually only able to be laid between April and October in the UK due to the system being cured through moisture and temperature. Should installations be instructed to be completed when conditions are not suitable at the discretion of our Contracts Manager, no warranty will be offered.
- Should an instruction be received to undertake works in either September or October, weather conditions may be unsuitable at the time specified. If we are unable to lay the surface at this time, we reserve the right to charge for the polymeric paint as this has a short shelf life and will not be suitable for use when weather conditions improve the following April.
- We have exclusive access to the pitch area throughout the period required to install the surface.
- Tarmacadam base is to conform to our standard specification and level tolerances.

### Play Grass Surfaces

*Additional general conditions and assumptions when quoting for play grass surfaces.*

- This is a polypropylene fibre grass with a lighter coloured thatch and heavy duty porous backing sheet. It is a sand dressed surface suitable for low to medium traffic areas, low impact play areas (nurseries, playgrounds etc.) - 5 year guarantee when maintained in accordance with our maintenance schedule. Please request a copy of our guarantee certificate for full provisions/exclusions.
- Please note this price is subject to being provided with a dimension drawing showing any equipment or obstacles to be laid around. No wastage/cut loss has been allowed for. Please contact us for information on sub base preparation.
- Please Note – Seams where the grass is joined together, or where we have had to cut around obstacles within the area such as play equipment may be visible. Mirrors can focus the suns heat and can damage surfaces. Please ensure any mirrors do not direct the heat onto the surface. We cannot be held responsible for any damage because of mirrors
- It is the client's responsibility to ensure that the thicknesses quoted for are sufficient for the critical fall height of the equipment that it is to serve. It is also the client's responsibility to ensure that the product requested is fit for purpose. Any repairs carried out to existing surfaces cannot be guaranteed.