

TERMS & CONDITIONS FOR THE SUPPLY OF GOODS & SERVICES

These terms & conditions contain limits on the liability of the Company.

Please read clause 13 with care.

1 – CONDITIONS

'Company' means GRAPHIC PLC a Company registered in England and Wales (Company Number 01036230) with its registered office at Down End, Lords Meadow Industrial Estate, Crediton, Devon, EX17 1HN.

'Company Intellectual Property' means any Intellectual Property Rights that are owned, developed or acquired by, or licensed (other than by the Customer) to, the Company before, on or after the date of the Order, and which are used in or in connection with the manufacture of the Goods including any new or improved process, technique, method, formula, invention or know-how that relates to the manufacture of the Goods

'Contract' means the contract between the Company and the Customer for the supply of Goods and/or Services in accordance with these terms and conditions.

'Customer' means the company who places an Order.

'Customer Intellectual Property' means the Intellectual Property Rights that are (a) owned by (or licensed to) the Customer at the date of the Order; or (b) developed or acquired by, or licensed (other than by the Company or any sub-contractor) to the Customer on or after the date of the Order;

'Force Majeure Event' as defined in Clause 14.

'Goods' the goods (or any part of them) set out in the Order.

'Intellectual Property Rights' means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

'Order' means the Customer's order for the supply of Goods and/or Services, as set out in the Customer's written acceptance of the Company's quotation.

'Services' the services supplied by the Company to the Customer as set out in the Specification.

'Specification' means the specification for the Goods and/or Services provided by the Customer as set out in the Order including the specification document, the drawings and the specification data.

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2 – FORMATION OF CONTRACT

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with this Contract.
- 2.2 No Order shall be deemed accepted until the Company confirms acceptance to the Customer in writing.
- 2.3 Any samples, drawings, descriptive matter or advertising issued by the Company and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Company's brochures or website are issued or published for the sole purpose of giving an approximate idea of the Goods and Services described in them. They shall not form part of the Contract nor have any contractual force.
- 2.4 Quotations unless previously withdrawn shall be valid for a period of 30 days from their issue date.
- 2.5 Variations to this Contract will not be recognised by the Company unless the Company has specifically accepted them in writing.
- 2.6 This Contract shall take precedence over any terms the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.7 The prices quoted are for the stipulated quantities named in the quotation. Any variation in quantity shall be the subject of a new quotation.

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3 – GOODS

3.1 The Company warrants that:

- (A) subject to Clause 3.2 and Clause 3.3, the Goods will conform with the Specification; and
- (B) subject to Clause 3.5, the Goods will be free from material defects in design, material and workmanship.

3.2 The Company reserves the right to amend the Specification if required by any applicable statutory or regulatory requirement, and the Company shall notify the Customer in any such event.

3.3 The Specification may be amended by mutual written agreement of the Customer and Company.

3.4 The Company shall, at its option, repair or replace defective Goods, or refund the price of defective Goods in full provided that:

- (A) the Customer gives notice in writing to the Company within a reasonable time of discovery that some or all of the Goods do not comply with a warranty set out in Clause 3.1;
- (B) the Company is given a reasonable opportunity of examining such Goods; and
- (C) the Customer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Customer's cost.

3.5 The Company shall not be liable for the Goods' failure to comply with the warranty set out in Clause 3.1 if:

- (A) the Customer makes any further use of such Goods after giving a notice in accordance with Clause 3.4;
- (B) the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage, commissioning, installation, use or maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (C) the defect arises as a result of the Company following the Specification supplied by the Customer;
- (D) the Customer alters or repairs such Goods without the written consent of the Company;
- (E) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
- (F) the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

3.6 Except as provided in this Clause 3, the Company shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in Clause 3.1.

3.7 Due to the high degree of accuracy required, and because it is possible for the electronic transmission of specification data from the Customer to the Company to result in errors in the interpretation of the Specification, defects may occur. The Company does not have access to the raw specification data and cannot therefore check the goods for all types of defect.

4 – DELIVERY

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4.1 Unless otherwise agreed in writing all quotations and estimates assume delivery in full loads. The Company reserve the right to charge extra for delivery in part loads where requested by the Customer and the failure of any one delivery shall not affect the performance of the Contract as to other deliveries.

4.2 Delivery times given by the Company are estimates and the time of delivery is not of the essence. The Company shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.3 Delivery notes bearing the signature of the Customer, their service agent or representative, shall be conclusive evidence of receipt of goods described unless claims for investigation are made in writing to the Company as from the delivery date:

(i) for shortage of quantity within 3 days;

(ii) for rejection within the provisions of this Contract within 10 days;

(iii) for non-delivery within 10 days of the Company's invoice date or within the period specified by an independent carrier whichever is the shorter.

4.4 The Customer shall note any claim for short delivery or for damage to components on the delivery schedule at the time of delivery or collection and shall confirm such claims in writing to the Company's head office within three working days from the date of delivery. Compliance with this requirement shall be a condition precedent to any claim for short delivery or damaged components. If short delivery does take place the Customer undertakes not to reject the goods but to accept the goods delivered as part performance of the Contract.

4.5 Where the goods are not delivered by the Company or collected by the Customer but are delivered by an independent carrier delivery to the carrier shall be deemed to be delivery to the Customer.

4.6 If the Customer fails to take delivery on the agreed date the Company shall be entitled to store and insure the goods and to charge the Customer the reasonable costs incurred.

5 – SERVICES

5.1 The Company shall supply the Services to the Customer in accordance with the Specification in all material respects.

5.2 The Company shall use reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

5.3 The Company warrants to the Customer that the Services will be provided using reasonable care and skill.

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6 – DESIGN AND DRAWING

6.1 The Customer shall:

- (A) ensure that the Specification provided in the Order is accurate;
- (B) co-operate with the Company in all matters relating to the Contract; and
- (C) provide the Company with such information and materials as the Company may reasonably require in order to supply the Goods and/or Services and ensure that such information is complete and accurate in all material respects.

6.2 The Company will only test the Goods in accordance with the net-list supplied by the Customer and accepts no further responsibility for the integrity of the electrical circuitry.

6.3 The Company accepts no responsibility for any drawing design or specification not prepared by the Company and offers no warranty, guarantee, representation or opinion as to the practicability of construction or the efficacy, safety or otherwise of material to be supplied or work to be executed by the Company in accordance with such drawing, design or specification. The cost of any additional work caused by defects in any such drawing designs or specifications shall be chargeable to the Customer.

6.4 The Customer shall be wholly responsible for ensuring that the products supplied are used in such a manner as to ensure compliance with Directives on Electromagnetic Compatibility such as Directive 89/336/EEC and/or its equivalent for telecommunications equipment.

6.5 The Customer warrants that any Specification supplied by them will not cause a breach of a third party's intellectual property rights.

7 – RISK AND TITLE

7.1 The risk in the Goods shall pass to the Customer upon collection or delivery to the place agreed.

7.2 The property and title in the Goods shall not pass to the Customer until all amounts due from the Customer to the Company in respect of Goods collected or delivered have been paid for in full. During that time the Customer shall be entitled to sell the Goods in the ordinary course of its business but shall hold the proceeds of sale on trust for the Company.

8 – INDEMNITIES

8.1 To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Company against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Company arising out of or in connection with any claim made against the Company for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the Company's use of the Specification. This Clause 8.1 shall survive termination of the Contract.

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9 – TERMS OF PAYMENT

9.1 The price for the Goods and/or Services shall be set out in the Order or, if no price is quote, the price set out in the Company's published price list or in accordance with the Company's daily fee rates.

9.2 The Company shall invoice the Customer prior to delivery.

9.3 The Customer shall pay strictly 30 days after the date of the invoice unless otherwise agreed in writing to the bank account nominated by the Company.

9.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax (VAT) chargeable from time to time.

9.5 If the Customer fails to pay on time, the Customer shall lose the benefit of any previously agreed discount and the Company reserves the right to charge interest at 1.5% per month to be calculated on a daily basis from the due date of payment to the date payment is received by the Company. The Customer shall pay all accounts in full and not exercise any rights of set off or counterclaim against invoices submitted.

9.6 The Company reserves the right to increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Company that is due to any factor beyond the control of the Company, any change in applicable law, any request by the Customer to change the Order, or any delay caused by the Customer.

10 – INTELLECTUAL PROPERTY RIGHTS

10.1 Except as expressly set out in this clause 10, no Intellectual Property Rights of either party are transferred or licensed as a result of this Contract. The Company Intellectual Property is and shall remain the exclusive property of the Company, and the Customer Intellectual Property is and shall remain the exclusive property of the Customer.

10.2 The Customer hereby grants to the Company a non-exclusive, royalty-free licence (including the right to grant sub-licences to sub-contractors) to use any Customer Intellectual Property for the purposes of, and to the extent necessary to, manufacture the Goods and otherwise perform its obligations and exercise its rights under this Contract.

11 – DATA

11.1 Please see our privacy policy at <https://www.graphic.plc.uk/uploads/files/Q1154-1%20Privacy%20Notice.pdf> for details on how we process your data.

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12 – CANCELLATION

12.1 Without liability, the Company may terminate this Contract with immediate effect by giving written notice to the Customer if:

(A) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;

(B) the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy; and

(C) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due.

12.2 An Order may be terminated immediately upon the mutual written consent of both parties.

12.3 On termination of the Contract for any reason the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Goods supplied or work already undertaken but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Customer immediately on receipt.

13 – LIABILITY

13.1 Nothing in these conditions shall have the effect of excluding or restricting the liability of the Company for any liability which cannot legally be limited including liability for death or personal injury resulting from its negligence.

13.2 The total aggregate liability of the Company (whether in contract or for negligence or breach of statutory duty or otherwise howsoever) to the Customer for any loss or damage of whatever nature and howsoever caused shall be limited to and under no circumstances shall exceed an amount equal to three times the price paid for the Goods which are the subject of the claim.

13.3 The Company shall under no circumstances be liable for any loss of profits, loss of sales or business, loss of anticipated savings, loss of use or corruption of data, third-party claims and indirect or consequential losses however such loss arises.

14 – FORCE MAJEURE

14.1 Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a Force Majeure Event). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 45 days, the Contract shall terminate unless the parties have agreed otherwise in writing.

15 – CONFIDENTIALITY

15.1 Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or companies of the other party or of any member of the group of companies to which the other party.

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16 – GENERAL

16.1 Neither party may at any time assign, subcontract or deal in any other manner with any or all of its rights and obligations under the Contract without the prior written consent of the other party.

16.2 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office.

16.3 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.

16.4 The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

16.5 The Contract shall be governed by the laws of England and each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.