

1. DEFINITIONS

- a) The term "Company" shall mean DFP Services Limited.
- b) The term "Customer" shall mean any person, firm or company who purchases goods or services from the Company.

2. CONTRACTS

These conditions shall be incorporated into each and every Contract made between the Company and the Customer and shall apply to the exclusion of any terms or conditions put forward by or on behalf of the Customer and shall not create any agency or partnership between the Company and Customer or any third party.

No variation or waiver of or addition to these conditions whether written or oral shall have effect unless and until authorised in writing by a manager of the Company. Quotations and estimates, whether written or oral, submitted by the Company shall be deemed to be an invitation to treat and not an offer.

3. QUOTATIONS / ESTIMATES

Quotations / Estimates are made upon the basis of materials and labour prevailing at the date thereof and are open for acceptance for a period of 30 days from the date of the quotation/estimate. Should a quotation/estimate not be accepted within 30 days the quotation/estimate may be subject to alteration to take account of increases in cost. In addition, the quotation/estimate may be withdrawn at any time prior to acceptance in writing. Stenographical errors or clerical errors, if any, are subject to subsequent correction.

4. VALUE ADDED TAX

All prices quoted are exclusive of value added tax at the prevailing rate.

5. SUPPLY OF SERVICES

The Company undertakes to provide Services with reasonable skill and care. If defects due to a failure to exercise such skill and care occur within 12 months of the completion of the supply, the Company undertakes to remedy the defects.

6. DATE FOR PAYMENT

6.1 The Customer shall make payment in full within 30 days from the date of invoice. The Company understands and will exercise its statutory rights to claim interest and compensation for debt recovery costs under the Late Payment Legislation if we are not paid according to agreed credit terms.

6.2 Any delay or default by the Customer in making payment in accordance with condition 6.1 shall render all sums owing to the Company on any account whatsoever including the costs of recovery of such sums, due and payable forthwith without requirement for any notice to be given to the Customer and interest will be charged in accordance with condition 6.1 with immediate effect until the date of actual payment.

6.3 The Customer shall not be entitled to withhold payment of any amount payable to the Company by reason of any dispute or claim by the Customer (whether or not the goods or services are to be provided in instalments and in such case each instalment is deemed to constitute a separate and distinct Contract). In the case of any short delivery or delivery of damaged goods to the Customer, the Customer shall remain liable to pay the full invoiced price of all other goods delivered.

7. DISPUTES AND SET-OFF

Any liability of the Company under the Contract shall be subject to and conditional upon the due performance and observance by the Customer of all its obligations under these conditions, and subject to these conditions, the Customer shall not be entitled to withhold or delay payment or exercise any right of set off whatsoever and howsoever arising or arisen which might otherwise be available to it.

8. PASSING OF PROPERTY AND RISK

- a) The risk in the goods shall pass to the Customer on delivery.
- b) Title to the goods shall remain vested in the Company after delivery until payment of all sums (whether arising out of this or any other Contract) has been made in full to the Company.
- c) As long as title in the goods remains vested in the Company and the goods are in possession or under the control of the Customer, the following provisions apply:-
 - i) The Customer may (unless otherwise notified in writing by the Company) use, sell or otherwise deal with the goods in the ordinary course of business.
 - ii) The Customer shall separately store and keep clearly identified the goods from other goods.
 - iii) The Company may at any time on giving prior notice enter the premises of the Customer for the purpose of inspecting and identifying the goods and the Customer irrevocably authorises the Company to enter upon its premises for that purpose.
 - iv) The Company may at any time revoke the Customers powers in i) above by notice to the Customer if the Customer is in default for longer than 7 days in the payment of any sum whatsoever due to the Company under this or any other Contract or if the Company has bonafide doubts as to the solvency of the Customer.
 - v) The Customer's powers in i) above shall automatically cease if a receiver is appointed over any assets of the undertaking of the Customer or a winding up order is made against the Customer or the Customer goes into voluntary liquidation (otherwise than for the purpose of reconstruction or amalgamation) or calls a meeting of, or makes any arrangement or composition with creditors or commits any act of bankruptcy.
 - vi) Upon determination of the Customer's powers in i) above the Customer shall place the goods at the disposal of the Company who shall be entitled to enter upon any premises of the Customer for the purpose of removing such goods from the premises (including severance from realty where necessary).
 - vii) If goods are returned or repossessed in accordance with foregoing provisions the Company shall repay to the Customer any sums received from the Customer in part payment of the price of the goods up to a maximum amount equal to the current market value of the goods based on their condition at the time of return or repossession and after deducting all costs and expenses of the Company in having the goods returned or repossessed and subject also to any right of set off the Company may have in respect of other sums owing by the Customer to the Company.

9. INDEMNITY

9.1 If any process is to be applied to the Goods or the Services by the Company in accordance with a specification or direction (as the case may be) submitted by the Customer, the Customer shall indemnify and hold harmless the Company from and against all loss, damages, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the company in settlement of any claim for infringement or alleged infringement of any intellectual property rights of any other person which results from the Company's use of the Customer's specification or from the Company complying with the Customer's direction as the case may be.

9.2 Where the Customer uses the Goods or the Services:-

- i) in the manufacture, supply or distribution of any other Goods;
 - ii) in the provision of a service;
- then the Customer shall indemnify and hold harmless the Company from and against all loss, damages, costs and expenses awarded against or incurred by the Company in respect of such use by the Customer arising out of the manufacture, supply or distribution of those other goods or the provision of that service.
- 9.3 The Customer shall indemnify and hold harmless the Company from and against all loss, damages, costs and expenses awarded against or incurred by the Company in respect of:-
- i) any liability which the Company may incur as a result of a claim against the Company by a third party under Part 1 of the Consumer Protection Act 1987;
 - ii) any warranty howsoever given by the Customer to a third party;
 - iii) any loss caused by the Goods during transit.

10. FORCE MAJEURE

The Company shall have no liability whatsoever for any failure to perform, or for any delay in the performance of any of its obligations under the Contract arising wholly or in part by reason of any factor beyond its direct control.

11. WARRANTY AND LIABILITY

The liability of the Company is subject to compliance by the Customer with all the terms contained in this clause 13.

11.1 The Company shall make good by reimbursement of the whole or part of the price (and where relevant, as a deduction from any part of the price remaining unpaid) or at its option by repair or by replacement any defect developing under normal use in the Goods and due solely to faulty design (except where the design is supplied by or on behalf of the Customer), faulty materials or faulty workmanship provided that:-

- i) The Customer shall be responsible for ensuring that Goods are fit for the purpose for which it wishes to use them and the Company gives no warranty (and none shall be implied) that the Goods are fit for any particular purpose and
- ii) The defect in question shall have appeared within the time limit specified by the manufacturer (or such longer time period (if any) as may be provided for in any guarantee given by or on behalf of the manufacturer of the Goods) after the Customer shall have taken possession of the Goods or performance of Services has been completed and shall have been thereupon promptly notified in writing to the Company; and
- iii) Any Goods alleged to be defective shall be stored in a safe place by the Customer until such time as the Company authorises their disposal; and
- iv) Any Goods alleged to be defective shall, if so required by the Company, be promptly returned at the Customer's risk and expense to the Company's works for inspection, and the Company shall in its reasonable opinion consider them to be defective solely by reason of faulty design materials or workmanship; and
- v) No attempt shall have been made by the Customer or by any third party to remedy any defect before, if so required by the Company, the Goods in question shall have been returned to the Company for inspection; and
- vi) The Goods in question shall have been serviced and maintained properly and in accordance with the manufacturers recommendations and shall not have been fitted with any parts, components or accessories other than those manufactured or recommended by the manufacturer.

11.2 Apart from such reimbursement repair or replacement the Company, its employees and agents shall be under no liability to the Customer or to any third party for any injury, loss or damage of any kind whatsoever, howsoever and wheresoever arising or arisen, and whether direct or indirect, including without limitation any injury, loss or damage arising out of or incidental to:-

- i) Any negligence of the Company or of any of its employees or agents (except insofar as such negligence may result in death or personal injury); or
- ii) The Company's performance of or failure to perform or breach of any of its obligations, whether express or implied under the Contract or otherwise; or
- iii) The supply, installation, repair or maintenance of any of the Goods; or
- iv) Any defect in any of the Goods; or
- v) Any advice given or representation made by the Company or on its behalf; or
- vi) Any performance of any Services.

11.3 Save as set out in clause 13.1 the liability of the Company arising from all and any claims relating to any single Contract shall be limited to a maximum sum of £200 in total or such amount (less the costs of recovery incurred by the Company) as the Company receives from the manufacturer of the Goods giving rise to the claim from the Customer.

11.4 The Company shall not be liable for any claim relating to any breach of warranty, express or implied, brought after the expiry of the period of the manufacturers warranty (or, in the case of Goods, after the expiry of such longer period (if any) as may be provided for by or on behalf of the manufacturer of those Goods).

11.5 The Company shall in no circumstances be liable to the buyer for any economic loss, loss of profit, loss of business or like loss.

11.6 The terms of this condition replace all conditions, warranties, representations, statements, liabilities and other terms whatsoever implied by common law, statute or otherwise, all of which shall accordingly be excluded to the extent allowed by law, and the Company shall in relation to the Goods and Services have no obligation to the Customer, either arising by statute or in tort or in Contract and whether arising out of any negligence of the Company or any of its employees or agents (and whether under the Contract or under any other Contract), other than the express obligations contained in these conditions or in any other document expressly incorporated in writing into the Contract. Accordingly, it shall be for the Customer to insure against any liability arising from the performance of the Services and from its use of the Goods.

11.7 The Company shall use its reasonable endeavours to transfer to the Customer the benefit of any guarantee in respect of the Goods available from the manufacturer provided that the Company may in its discretion, elect to do so only at the cost of the Customer.

11.8 Notwithstanding anything to the contrary herein contained the Company's liability to the Customer for:-

- i) Death or personal injury resulting from the negligence of the Company, its employees or agents;
- ii) Damage suffered by the Customer as a result of a breach by the Company of the condition as to title or the warranty as to quiet possession implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; and
- iii) Damage for which the Company is liable to the buyer under Part 1 of the Consumer Protection Act 1987;

Shall not be limited save that nothing in this clause 13 shall confer a right or remedy upon the Customer to which the Customer would not otherwise be entitled.

11.9 The provisions of this clause 12 shall survive any termination of the Contract.

11.10 The exclusions from limitations of liability set out in this clause 13 shall be considered severably. The validity or unenforceability of any one clause, sub-clause, paragraph or sub paragraph of this clause 13 shall not affect the validity or enforceability of any other part of this clause 13.

12. DURATION AND TERMINATION

12.1 Where the Contract Period has been specified, this Contract shall come into force on the date specified in the quotation overleaf and shall continue for the Contract Period and shall continue thereafter until terminated by either party in accordance with these conditions.

12.2 Where a Contract Period has been specified:-

12.2.1 Either party may terminate this Contract by giving the other party not less than 90 days notice in writing such notice to expire on the last business day of the Contract Period or on any subsequent anniversary of that date; and

12.2.2 In the event that the Customer terminates the Contract other than in accordance with clause 12 then the Customer shall pay to the Company the following:-

- i) The charges to the date of termination; and
- ii) 100% of the amount of the charges that would have been payable for the period from the date of termination until the earliest date on which the Customer could have terminated the Contract in accordance with clause 12.

12.3 Whether or not a Contract Period has been specified the Company shall be entitled forthwith to terminate the Contract if;

- i) The Customer commits any breach of these Conditions and (if capable of remedy) fails to remedy the breach within 30 days after being required by written notice to do so;
- ii) The Customer ceased or threatens to cease to carry on business; or
- iii) The Customer becomes insolvent or goes into liquidation whether compulsory or voluntary (save for the purpose of reconstruction or amalgamation and in such manner that the Company resulting from the reorganisation effectively agrees to be bound by or to assume the obligations imposed on the Customer under this Contract) or if an administrator, administrative receiver is appointed in respect of the whole or any part of its assets or if the Customer makes an assignment for the benefit of composition with its creditors generally or threatens to do any of these things or if any similar event in any jurisdiction affects the Customer.

13. CALL OUTS

The Company undertakes to use its best endeavours to respond to callouts by Customers in accordance with the time specified by the Company in the quotation/estimate, or within a reasonable time period.

For the avoidance of doubt such times given to the Customer shall not create a contractual obligation to attend the call out on such date or time and accordingly no liability shall be accepted by the Company for any direct or consequential loss arising from the delay in responding to the call out.

The Company reserves the right to charge the Customer a fixed sum of £100.00 in the event that a call out is subsequently cancelled by the Customer.

14. PRICE AND PRICE ESCALATION

The price is based upon the costs of materials, labour, transport, overheads, insurance, taxes (other than Value Added Tax), or any other similar costs that are current at the date or earlier of the Company's quotation and the Customer's order. The price may be varied to take account of any reasonable increase in any such costs or charges, which may occur before the Contract is fulfilled.

15. LAW

The Contract between the company and the Customer for the supply of Goods or Services which includes these conditions shall be governed and construed and shall take effect in accordance with the laws of England.