

# Terms and Conditions of Sale

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## 1. Interpretation

- 1.1 The definitions and rules of interpretation in this condition apply in these terms and conditions (Conditions).
- Acceptance: acceptance of the Goods by the Buyer.
- Buyer: the person, firm or company who purchases the Goods from the Company.
- Company: Venture Display Ltd (Registered in England No 6719305)
- Contract: any agreement between the Company and the Buyer for the sale and purchase of Goods, incorporating these Conditions.
- Delivery Point: the place where delivery of the Goods is to take place under condition 3.
- Deliverables: any Documents and materials developed by the Company in relation to the Goods in any form, including certificates, calculation details, drawings, data, reports and specifications (including drafts) that are listed in the Contract as being deliverable to the Buyer or that are delivered to the Buyer.
- Document: includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.
- Goods: any goods agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them).
- In-put Material: all Documents, information and materials provided by the Buyer relating to the Goods or Services including (without limitation), artwork, drawings, data, reports and specifications.
- Insolvency Event: a party suffers an insolvency event when he has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer or suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or is unable to pay its debts within the meaning of section 123 of

the Insolvency Act 1986 or ceases to trade.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Pre-existing Materials: all Documents, information and materials provided by the Company relating to the Goods which existed prior to the commencement of the Contract including artwork, drawings, data, reports and specifications.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

- 1.2 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.3 Words in the singular include the plural and in the plural include the singular.
- 1.4 A reference to one gender includes a reference to the other gender.
- 1.5 Condition headings do not affect the interpretation of these conditions.

## 2. Application of Conditions

- 2.1 Subject to any variation under condition 2.3 the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.2 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- 2.3 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a Director of the Company. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.
- 2.4 Each order or acceptance of a quotation for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Goods subject to these

conditions.

- 2.5 No order placed by the Buyer shall be deemed to be accepted by the Company until a written Order Confirmation document is e-mailed or faxed from the Company to the Buyer.
- 2.6 Any quotation is given on the basis that no Contract shall come into existence until the Company despatches an Order Confirmation document to the Buyer. Any quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it which will be done in writing to the Buyer.

### 3. Company's Obligations

- 3.1 The Company shall use reasonable endeavours to supply the Goods and to deliver the Deliverables to the Buyer, in accordance in all material respects with the Company's Proposal.
- 3.2 The Company shall use reasonable endeavours to meet any delivery dates specified in the Company's Proposal, but any such dates shall be estimates only and time shall not be of the essence for delivery of the Goods.

### 4. Buyer's Obligations

- 4.1 The Buyer shall:
  - (a) co-operate with the Company in all matters relating to the Goods; and
  - (b) provide to the Company, in a timely manner, a full and concise Purchase Order and/or other information as the Company may require to ensure that the order is accurate in all respects, plus, correct artwork.
  - (i) Artwork: The Buyer will provide 'print ready artwork' in accordance with the attached artwork specification supplied from the Company. Where the Buyer or their agent does not do this and delivery is required within 72 hours of the provision of artwork (including notification of FTP address details or equivalent from where the artwork is to be downloaded) then the Company reserves the right to charge the Buyer for Pre Press time for each artwork piece and for each dimension in which it is required to convert the artwork into 'print ready artwork'. Our standard charge for Pre Press time is £30 per half hour.
  - (ii) Dimensions: The Buyer will specify the height and width, visual size and finished size from outer edge to opposite outer edge of hemmed / pocketed / kedered extra material of printed pieces). The Company will use its best endeavours to achieve those dimensions but it is deemed that the Buyer will accept the dimensions achieved by the Company providing they are within 2% of those dimensions (width(s) and height(s)) specified by the buyer. This tolerance can be reduced for those printed pieces where the Buyer specifies they are to be installed in advised tension systems (such as Universal, Nova, Springflex and Traxx). In these instances the Buyer must always specify the tolerance, which should not be less than 15mm, and this tolerance is accepted in writing by the Company in its Order Confirmation document.
  - (iii) Colours: Best colours are achieved when the Buyer provides the Company with a coated pantone number to be achieved for designated areas of block colour. Where the Buyer or their agent does not provide such information then the Buyer is deemed to accept the

colours on the print(s) produced by the Company's 'print from file process'.

- (c) Sample or Test Prints: Where the Buyer requires a sample or test print prior to authorising production of their order the Company will provide such prints at a cost of £45 for up to a maximum of 5 square metres of print. (This cost includes delivery of the sample). Such additional charges can be refunded to the Buyer in whole or in part, at the sole discretion of the Company, when the Buyer places their order which were the subject of the buyers request for the sample or test prints.
- (d) Company's Right to use Buyer's Artwork: Unless refused in writing by the buyer at the time of placing their order(s) with the Company then the Company will presume, and be so indemnified by the Buyer, that it has the Buyer's permission, and that of their client, to use any artwork provided to demonstrate the Company's services in its website, brochures and any other promotional products.

### 5. Delivery and Acceptance Prior to Installation

- 5.1 It is the Buyer's sole responsibility to inspect the goods, at the address specified by the buyer, prior to their installation / display. Inspection should cover – substrate used, colours, print quality, dimensions, perimeter or other finishing, the appearance of the Goods when they are backlit (if that is to be their use).

If that cannot be done at the Buyer's specified delivery address then arrangements can be made to carry out this inspection at the Company's premises prior to despatch of the Goods. Where the Buyer declines to carry out an inspection prior to installation it will be deemed that the Buyer has accepted the Goods as correct. If, after installation / display of the Goods, the goods are rejected for any reason whether or not such rejection has been caused by the Company's production / delivery process, then all costs to do with takedown / reinstallation / loss of media value / any other claims are the sole responsibility of the Buyer.
- 5.2 If for any reason the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to or declines to deliver the Goods on time because the Buyer has breached any of its obligations the Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance). For the avoidance of doubt any payment due upon delivery shall remain payable notwithstanding non-delivery due to the Buyer's failure to accept delivery.
- 5.3 Where specified in the Contract, the Company may deliver the Goods in instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 5.4 Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence).
- 5.5 If in the Buyer's reasonable opinion the Goods are not in accordance with the Agreement the Buyer must reject them by notice in writing within 5 working days of delivery stating in what respect he believes the Goods are deficient ("Rejection Notice"). Alternatively

the Buyer shall accept them ("Acceptance"). Any delivery sent by the Company to the Buyer via overnight courier should be signed for 'unchecked' or 'damaged'. Failure to do so will prevent the Company from making a claim against the courier and the Company will deem that the goods have been accepted by the Buyer.

- 5.6 In the event of a Rejection Notice within 5 days of delivery the Buyer shall return the Goods to the Company and the Company shall repair or replace them at its option and in due course make them available for delivery again. Inspection of the goods by the Company, or its agents, will be permitted to inspect the Goods in-situ if required.
- 5.7 If the Buyer shall fail to issue a written Rejection Notice within 5 working days of delivery or if he shall make use of the Goods then Acceptance shall be deemed to have occurred at such time or immediately following the expiry of such period.
- 5.8 The Buyer should note that the Company will only issue credit notes against rejected goods on receipt of returned goods to the Company for inspection. Relevant photographic evidence of any rejection will be required prior to any replacement Goods being reprinted to show in detail the alleged problem(s). The Company reserves the right not to reprint Goods prior to having the original Goods returned in such cases where colour; and /or print quality have been highlighted as the reason for the rejection.

## 6. Risk/Title

- 6.1 The Goods are at the risk of the Buyer from the date and time of delivery.
- 6.2 Title to the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
  - (a) the Goods; and
  - (b) all other sums which are or which become due to the Company from the Buyer on any account.
- 6.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:
  - (a) hold the Goods on a fiduciary basis as the Company's bailee;
  - (b) store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
  - (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
  - (d) maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company.
- 6.4 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:
  - (a) any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
  - (b) any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.
- 6.5 The Buyer's right to possession of the Goods shall terminate immediately if:
  - (a) the Buyer suffers an Insolvency Event; or
  - (b) the Buyer encumbers or in any way charges any of the

Goods.

- 6.6 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
- 6.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.
- 6.8 Where the Company is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.
- 6.9 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition 6 shall remain in effect.

## 7. Price

- 7.1 Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price set out in the Company's Order Confirmation document.
- 7.2 The price for the Goods shall be exclusive of any VAT.

## 8. Payment

- 8.1 Unless otherwise agreed in writing with the Company the price for the goods is due in pounds sterling within 30 days following month end of invoice date.
- 8.2 Time for payment shall be of the essence.
- 8.3 No payment shall be deemed to have been received until the Company has received cleared funds.
- 8.4 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.
- 8.5 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise until the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.
- 8.6 If the Buyer fails to pay the Company any sum due pursuant to the Contract, the Buyer shall be liable to pay any 'late payment' fees to The Company. The Company reserves its stay right to claim any 'late payment' fees and compensation for debt recovery costs under the late payment legislation 2002 if not paid according to agreed credit terms.
- 8.7 Without prejudice to any other right or remedy that it may have, if the Buyer fails to pay the Company on the due date, the Company may suspend further production and delivery until payment has been made in full.

## 9. Quality

- 9.1 Where the Company is not the manufacturer of the Goods, the Company shall endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to the Company.
- 9.2 The Company warrants that (subject to the other

provisions of these conditions) the goods shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979 and be reasonably fit for use upon the Site or in the location if such details have been advised and accepted by the Company. The warranty issued will vary according to the usage and intended location of the goods, as specified by the Buyer. The Company reserves the right to revoke any warranty where the Buyer, contrary to advice given by the Company, insists on a specification of Goods that is deemed by the Company to be unsuitable for the intended usage and/or location as notified by the Buyer.

- (a) Goods supplied for indoor use will be warranted for a minimum period of 12 months from date of invoice. The Company must be advised of the intended usage by the Buyer at the point of placing a Purchase Order with the Company for this warranty to be effective.
  - (b) Goods supplied for outdoor use will be warranted for a minimum period of 12 months from the date of invoice. The Company must be advised of the intended usage by the Buyer at the point of placing a Purchase Order with the Company for this warranty to be effective.
- 9.3 The Company shall not be liable for a breach of any of the warranties in condition 9.2 unless:
- (a) the Buyer gives written notice of the defect to the Company, and, if the defect is as a result of damage in transit by the carrier, within 5 working days of the time when the Buyer discovers or ought to have discovered the defect; and
  - (b) the Company is given a reasonable opportunity after receiving the notice of examining such Goods.
- 9.4 The Company shall not be liable for a breach of any of the warranties in condition 9.2 if:
- (a) the Buyer makes any further use of such Goods after giving such notice; or
  - (b) the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation use or maintenance of the Goods or (if there are none) good trade practice; or
  - (c) the Buyer alters or repairs such Goods without the written consent of the Company.
- 9.5 Subject to condition 9.3 and condition 9.4, if any of the Goods do not conform with any of the warranties in condition 9.2 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, at the Company's expense, return the Goods or the parts of such Goods which are defective to the Company.
- 9.6 If the Company complies with condition 9.5 it shall have no further liability for a breach of any of the warranties in condition 9.2 in respect of such Goods.

## 10. Intellectual Property Rights

- 10.1 As between the Buyer and the Company, all Intellectual Property Rights and all other rights in the Deliverables and the Pre-existing Materials shall be owned by the Company. Subject to condition 10.2, the Company licenses all such rights to the Buyer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Buyer to make reasonable use of the Goods and Deliverables. If the Contract terminates, this licence shall automatically terminate.
- 10.2 The Buyer acknowledges that, where the Company

does not own any Pre-existing Materials, the Buyer's use of rights in Pre-existing Materials is conditional on the Company obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the Company to license such rights to the Buyer.

## 11. Confidentiality and the Company's Property

- 11.1 The Buyer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Buyer by the Company, its employees, agents, consultants or subcontractors and any other confidential information concerning the Company's business or its products which the Buyer may obtain.
- 11.2 The Buyer may disclose such information:
- (a) to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out the Buyer's obligations under the Contract; and
  - (b) as may be required by law, court order or any governmental or regulatory authority.
- 11.3 The Buyer shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this condition 11.
- 11.4 The Buyer shall not use any such information for any purpose other than to perform its obligations under the Contract.
- 11.5 All materials, equipment and tools, drawings, specifications and data supplied by the Company to the Buyer (including Pre-existing Materials and the Company's Equipment) shall, at all times, be and remain as between the Company and the Buyer the exclusive property of the Company, but shall be held by the Buyer in safe custody at its own risk and maintained and kept in good condition by the Buyer until returned to the Company, and shall not be disposed of or used other than in accordance with the Company's written instructions or authorisation.

## 12. Limitation of Liability - The Buyer's Attention Particularly Drawn to this Condition

- 12.1 Subject to condition 3 and condition 9, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Buyer in respect of:
- (a) any breach of the Contract;
  - (b) any use made or resale by the Buyer of any of the Goods, the Deliverables or of any product incorporating any of the Goods; and
  - (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 12.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

- 12.3 Nothing in these conditions excludes or limits the liability of the Company:
- (a) for death or personal injury caused by the Company's negligence; or
  - (b) under section 2(3), Consumer Protection Act 1987; or
  - (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
  - (d) for fraud or fraudulent misrepresentation.
- 12.4 Subject to condition 12.2 and condition 12.3:
- (a) The Company shall not be liable to the Buyer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

## 13. Assignment

- 13.1 The Company may assign or sub-contract the Contract or any part of it to any person, firm or company.
- 13.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

## 14. Termination

- 14.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other immediately on giving notice to the other if:
- (a) the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment; or
  - (b) the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
  - (c) the other party suffers an Insolvency Event.
- 14.2 On termination of the Contract for any reason:
- (a) the Buyer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the Company may submit an invoice, which shall be payable immediately on receipt;
  - (b) the Buyer shall return all of the Goods, Company's Equipment, Pre-existing Materials and Deliverables. If the Buyer fails to do so, then the Company may enter the Buyer's premises and take possession of them. Until they have been returned or repossessed, the Buyer shall be solely responsible for their safe keeping; and
  - (c) the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.
- 14.3 On termination of the Contract (however arising), the following conditions shall survive and continue in full force and effect:
- (a) condition 10;
  - (b) condition 11;

- (c) condition 14; and
- (d) condition 18.

## 15. Force Majeure

The Company shall have no liability to the Buyer under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of contractors or subcontractors.

## 16. General

- 16.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 16.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 16.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 16.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 16.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

## 17. Communications

- 17.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or e-mail.
- (a) (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Buyer by the Company; or
  - (b) (in the case of the communications to the Buyer) to its registered office or to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Buyer.
- 17.2 Communications shall be deemed to have been received:

- (a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- (b) if delivered by hand, on the day of delivery; or
- (c) if sent by fax or e-mail on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

## 18. Governing Law and Jurisdiction

- 18.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.
- 18.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Contract or its subject matter or formation (including non-contractual disputes or claims).