

PURELY DIGITAL LIMITED - CONDITIONS OF SALE - 1st DECEMBER 2014 VERSION

1. APPLICATION	
These Conditions of Sale apply to all quotations, offers, and contracts for the sale and supply of goods and services by Purely Digital Limited.	
2. DEFINITIONS	
In these Conditions, the following words have the following meanings:	
"Additional Charge"	means any charge under the Contract, in addition to the Price, including, including anything expressly specified as an Additional Charge and any Work In Progress Charge.
"Artwork"	means all graphics, images, photographs, text, copy, sketches, illustrations, content, designs, shapes, and other works and things to be printed on the Goods or Customer Materials, or in accordance with which the Goods or Customer Materials are to be cut, embossed, marked, or shaped.
"Charges"	means all amounts payable by you under the Contract, including the Price, Postage Charges, any Additional Charges, and any Work In Progress Charges.
"Conditions"	means these Conditions of Sale of Purely Digital Limited.
"Contract"	means the contract which incorporates these Conditions.
"Contract Terms"	means: (1) these Conditions; (2) and any terms incorporated by these Conditions; (3) each Quotation from us; (4) any documents referenced in our Quotations; (5) any other terms expressly proposed by us; (6) any terms proposed by you and expressly referred to and accepted by us in any communication from us; (7) all Specifications produced by us or expressly agreed by us; and (8) any terms implied by law and not excluded by these Conditions. Each such numbered item shall take precedence over any numbered item listed after it, and a later Quotation shall take precedence over an earlier, in the event of conflict.
"Customer, you, or your"	means: (1) the customer or client to whom our Quotations are addressed; (2) in the case of an Order, the person addressing the order to us; and (3) in the case of the Contract, the person who has entered into the Contract with us.
"Customer Materials"	means (as the context requires or admits): (1) any materials which you are to provide to us, or which we reasonably require from you, whether belonging to you or a third party, to perform the Contract, or in respect of which the Contract is to be performed, including any Proofs, Artwork or other Specifications, and including any materials in respect of which any Services are to be provided by us (such as paper or other materials to be printed on, die cut or drilled by us or which are to be posted by us on your behalf); and (2) any such materials that you actually supply to us.
"Deliverables"	means the Goods, Services, and Services Outputs, but nothing in the Contract will oblige us to supply to you any Source Files unless and to the extent expressly and explicitly stated by us in a written Quotation from us.
"Delivery Address"	means: (1) the address (if any) set out in the Contract Terms; or (2) if not so stated, such address as we may subsequently agree with you after the Contract is made; or (3) if not agreed, such address of yours as we may determine in our sole discretion.
"Design Services"	means any advice, design, development and consultancy services, including in relation to the production and/or finalisation of the Artwork, Proofs and other Specifications.
"Design Services Outputs"	means (as the context requires or admits): (1) any materials to be produced and/or supplied by us as an output from any agreed Design Services, such as print-ready Artwork, Proof, or other Specifications; and (2) the actual materials produced and/or supplied by us as an output from any Design Services actually provided under or in connection with the Contract.
"Goods"	means (as the context requires or admits): (1) any printed materials or other goods to be produced, sold and/or supplied by us under the Contract, as stated in the Contract Terms; and (2) the materials or other goods actually produced and/or delivered by us under the Contract.
"Intellectual Property Rights"	means copyrights, design rights, patents and rights to inventions, trademarks, know-how, trade secrets and rights to confidence, rights in databases, rights to the protection of passing-off, and all other intellectual property rights, in any parts of the world, whether registered or unregistered, and all rights in any applications for the same.
"Order"	means any order (whether written or oral) from you for the purchase of any goods or services from us, whether or not it expressly references the Contract Terms, including orders through any ordering website agreed with you.
"Personal Data"	means any data you supply to us which relates to any living individual for use in carrying out the Services.
"Postage Charges"	means any charges payable to a postal or courier services for the posting of any direct mail or other items on your behalf as part of the Services.
"Price"	means the price for the Goods, Services, and Service Outputs specified in our Quotations, or any other communication from us; and so that any later Quotation or communication from us shall take precedence over any earlier.
"Proof"	means (as the context requires or admits) either: (1) any proposed print-ready printing proof of any Artwork or other Specifications, or a specimen or sample of the proposed finished Goods or Service Outputs, which may be in PDF or other form; or (2) the final print-ready printing proof or specimen or sample of the proposed finished Goods or Service Outputs, which may be in PDF or other form, against which we have agreed to produce the Goods, or carry out and provide the Services and Services Outputs.
"Purely Digital", "we", "us", "our"	means Purely Digital Limited, a company registered in England and Wales, with registered office at 7 Jubilee Parkway, Jubilee Business Park, Derby DE21 4BJ, and company number 06481363.
"Quotation"	means (as the context requires or admits): (1) any quotation or offer from us for the supply of goods or services, whether or not it expressly incorporates or references these Conditions, and whether orally or in writing; and (2) in relation to the Contract, each such quotation or offer from us that led to the Contract.
"Services"	means (as the context requires or admits): (1) the services to be carried out by us under the Contract, as stated in the other Contract Terms, including any printing on, or die cutting, drilling or other processing of any Customer Materials, and including any Design Services; and (2) the actual services provided by us under or in connection with the Contract.
"Services Outputs"	means (as the context requires or admits): (1) the materials to be produced and/or supplied by us as an output from any Services, as stated in the other Contract Terms, including any processed Customer Materials, and any Design Services Outputs; and (2) the actual materials produced and/or supplied by us as an output from any Services.
"Specification s"	means the Artwork, Proofs, and all other designs, data, and other specifications for the Deliverables, including: (1) where we are to carry out any Design Services, your communicated requirements agreed with us for the Design Services Outputs; (2) any provisional or final specifications as stated by us in or accepted by us in the Contract Terms; and (3) any such specifications as shall be added to, updated, modified, and otherwise finalised by agreement between you and us after the Contract is entered into, which shall replace item (1) as and when agreed. Specifications includes all electronics files, printed documents, drawings, films, settings, negatives, positives, and other materials that record the Specifications.
"Source Files"	means all underlying, pre-cursor or source files and documents for or relating to any Proof, Artwork or other Specifications, including: (1) any files or documents containing any elements of the Artwork; (2) any files or documents which are used or needed to, or are the preferred form to, compile, generate, produce, modify or edit any Proof, Artwork or other Specifications; (3) and any such files or documents produced by us as a Design Services Output or otherwise in the course of performance of the Contract;
"Suitable"	means in relation to any Specifications or Customer Materials to be produced, approved or provided by you, that: (1) they comply with any other Specifications under the Contract; (2) they meet any reasonable requirements for use in printing (including correct grain direction) or other production of any Goods or Service Outputs or performance of any Services; (3) they meet your business requirements and purposes, and are fit for purpose, including any specific purposes of yours; and (4) they are of a satisfactory specification, quality and condition, are free from errors, omissions, faults, defects and damage, are clear and legible, are complete and accurate, are free from spelling and grammar errors and typographical errors, are in the correct format and form, and are suitable to be used to fully perform the Contract.
"Work In Progress Charge"	means the sum of the following, but no more than the total of the Charges: (1) the Price for any Goods, Services or Services Outputs completed, delivered and/or made available to you; (2) a reasonable charge (including a reasonable profit element) for anything done, cost incurred or wasted, and materials procured, ordered or consumed in furtherance of the production of any Goods or Service Outputs or performance of any Services, where not covered by item (1).
3. CONTRACT FORMATION	
Our Quotations	Unless otherwise stated, our Quotations are a legal offer from us to supply the Deliverables on and subject to these Conditions, open for acceptance for 30 days from and including the date of our Quotation. We may withdraw a Quotation at any time before you accept it.

Your Orders	Your Order to us against our valid Quotation shall be your acceptance of our Quotation (if it is our legal offer) and a legally binding contract shall be formed at that point. If our Quotation is not an offer, or we have not issued a Quotation, your Order to us shall be your legal offer to purchase the Deliverables on the Contract Terms, against any Quotation, which may be accepted by us orally or in writing or by commencing performance of the Contract. In addition, if you do not send an Order anything you do that is in connection with the performance of a Quotation, including sending us any Specifications, paying any amount to us, or sending us a purchase order, shall be deemed to be your order and acceptance of our Quotation.
Contract Terms	These Conditions and the other Contract Terms constitute the entire agreement between you and us. You agree that you were not induced to enter into the Contract by any representation from us. You agree that no terms you may propose, including any standard terms of purchase you may refer to, shall apply to the Contract. You may not cancel the Contract once it has been made, and we may make a Work In Progress Charge if we allow you to cancel or accept any cancellation. All terms implied by law in your favour, including under the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982 are hereby excluded.
Adjustments to Quotation	Unless otherwise stated in a Quotation, all Prices are estimates only, are subject to sight of, and agreement with you of the, final Specifications, are subject to your providing the final Specifications in a clear, legible, print ready form as a PDF, and are subject to agreement with you of the delivery arrangements and Delivery Address. We shall be entitled to issue a further Quotation, and to vary the Price and/or to make an Additional Charge, based on the final Specifications, for making any Specifications print-ready, and delivery in accordance with any agreed delivery arrangements and to any agreed Delivery Address. We will not be obliged to proceed further with the Contract until such further Quotation is agreed by you, and we may cancel the Contract at any time until we have agreed any such revised Quotation, Price and Additional Charge with you.

4. SUPPLY AND PURCHASE OBLIGATION

We agree to supply and deliver to you and you agree to purchase and take delivery of the Goods, Services and Service Outputs, on and subject to these Conditions and the other Contract Terms.

5. CUSTOMER MATERIALS

Provision	You must provide promptly without undue delay all Customer Materials, free of charge, including any stated in the Contract Terms, and anything else reasonably required by us to perform the Contract. In particular you must supply all final Specifications, except to the extent that we have agreed under the Contract Terms to design or finalise any Specifications for you as part of the Services.
Ownership	We shall not acquire any title to any Customer Materials.
Transport	You are responsible for transporting the Customer Materials to and unloading the Customer Materials at our nominated premises, by any agreed date in the Contract Terms, and in any case, without undue delay. We may make an Additional Charge for collecting or transporting any Customer Materials from you, or transporting any Customer Materials back to you.
Quantities	You must provide such quantities of the Customer Materials as we may reasonably require, including to cover normal or reasonably expected levels of spoilage. You acknowledge and agree that spoilage may occur and that we may dispose of or destroy any spoilage as we deem appropriate. You acknowledge that normal spoilage can be caused by many factors but mainly by poor printing, finishing machine errors, damage in transit and human error.
Format	You must ensure that any Customer Materials which are computer files are provided in such format as we may require, and in any event in PDF form.
Quality	You must ensure that all Customer Materials are Suitable and agree to assume all risks that they are not. We shall not be liable for or in breach of the Contract in respect of any shortfall (including excess spoilage) or non-conformity (including imperfections or other defects) of any Deliverables with the Contract to the extent resulting from or contributed to by the nature or characteristics of the Customer Materials or the Customer Materials not being Suitable, and you shall accept all Deliverables with and subject to any such shortfall or non-conformity. We shall not be responsible for checking, verifying or advising on the nature or characteristics of the Customer Materials or whether the Customer Materials are Suitable. We may, however, at our sole discretion, without assuming any duty of care, obligation or liability: (1) ask you for, and you shall supply without undue delay, samples of the Customer Materials; (2) examine and test the Customer Materials to establish their nature, characteristics and Suitability, without being liable for any consumption, wastage, loss or spoilage resulting from such testing; and (3) advise you of any results of such examination and testing and any concerns we have with the Customer Materials or their nature, characteristics or Suitability. We may reject any Customer Materials, and we may suspend and/or terminate the Contract, and in each such case, charge a Work In Progress Charge, if, in our sole and absolute opinion, or the opinion of any sub-contractor we use, the Customer Materials are not Suitable. We may make an Additional Charge if any Customer Materials are not of the right nature, characteristics and Suitability for us to be able to fully perform the Contract, including where this is found during production, including where we have to alter, replace or correct any Customer Materials provided, and including for any additional time, work, cost or expense, extra set up costs, priming, and testing, we may incur or are necessitated as a result.

6. SPECIFICATIONS

Conformity	We will supply the Deliverables in conformity with the final Proofs and other final Specifications agreed between you and us, but we shall not be liable to you for differences which are slight or of a nature that it would be unreasonable for you not to accept and use the Deliverables. We may assume that the last Proofs and other Specifications communicated between us before we commenced production of any Goods or Service Outputs, or carrying out any Services, are the final ones and are Suitable and approved by you.
Legal Compliance	We do not undertake to provide any legal advice under the Contract. You are responsible for verifying and ensuring that all Specifications, and your proposed use of the Goods, Services and Service Outputs, is compliant with all applicable laws, and that anything we are required to do as part of the Services is compliant with all applicable laws, including advertising, data protection, unsolicited marketing and gambling laws applicable to you or us.
Finalisation and approval of Proofs and other Specifications	Unless our Quotations expressly acknowledge that there is, or you and we have identified and agreed, a final set of documented Specifications for the Deliverables, you shall be required to finalise the Specifications, promptly without undue delay. Unless and to the extent otherwise expressly agreed as part of any Design Services, you are responsible for ensuring that all Specifications you provide to us are Suitable and for thoroughly and fully checking and confirming to us that all Specifications are Suitable. You acknowledge that it can be ambiguous whether a particular feature is deliberate or an error or fault, and that therefore we are dependent on you identifying this. You acknowledge that we do not undertake to provide any copywriting services unless expressly agreed as part of the Design Services. We will not be obliged to commence production or provision of any Deliverables until there is a Suitable set of final Specifications for them identified and agreed between you and us, and confirmed by you to be Suitable. If any element of the Deliverables is not fully and exhaustively covered in the Specifications, or any style, type, layout or other Artwork elements are left to our judgement, we may determine and implement what is required for such element in our sole and absolute discretion, and we may make an Additional Charge for this work as a Design Service. You shall on request provide to us, approve, or confirm to us, in writing, the final Proofs, Artwork, and other Specifications, promptly and without undue delay, and we shall not be obliged to produce or perform any further Deliverables dependent on the Specifications until you have complied with this term. If we commence production or performance of any Deliverables after you have purported to give us final approval of the Specifications, then we shall not be obliged to agree to any further changes to the Specifications. We may rely on and proceed to produce and provide the Deliverables in accordance with any Specifications you have approved, and we shall have no liability to you for any un-Suitability of the Specifications, and you shall accept and pay for all Deliverables made according to the Specifications, even if the Specifications are not Suitable.
Changes	If at any time you make, or we agree to make, or wish to make any changes or corrections to any Specifications, then we may unilaterally vary the Price and/or make an Additional Charge for: (1) making or assisting you with such changes or corrections; and (2) for any additional or wasted work, cost and expense arising out of such changes or corrections, or performing the Deliverables in accordance with such changes or corrections, including for any materials acquired or reserved for the purposes of the Contract which are no longer usable as a result of such changes or corrections, and including for any data transfer costs in sending revised Specifications.
Design Services	We will provide any Design Services which are stated in our Quotations. If we have not specified Design Services in our Quotation, we are not obliged to provide any Design Services, and we may make an Additional Charge for all Design Services we actually provide to you under the Contract or otherwise in connection with the Deliverables or their Specifications, whether specifically ordered by you or not, including where any Specifications are left to our discretion or to be completed or finalised by us. All Specifications produced by us will be in electronic PDF form only, and we may make an Additional Charge for supplying them in any other form. You agree to pay the Price and any Additional Charges for any Design Services we provide even if you do not approve of the results of the Design Services. You acknowledge that any Design Services we agree to provide to not include copywriting unless stated in the Contract Terms.
Source Files	We shall not be obliged to supply you with any Source Files which we have created or have in our possession, unless expressly and explicitly stated by us in any Quotation issued by us. If we have agreed to supply you with any Source Files, or are otherwise obliged to supply you with any Source Files, then unless expressly and explicitly stated in any Quotation issued by us, we may make an Additional Charge for supplying the Source Files, and we will not be obliged to supply these until

such Additional Charge and all other Charges have been paid by you in full in cash or cleared funds.

7. PERFORMANCE	
Timescales	We will use reasonable endeavours to perform the Contract and supply the Goods and Services in accordance with any dates or times stated in the Contract Terms or otherwise within a reasonable time. All stated dates and times are estimates only and time for our performance is not of the essence.
Your Co-operation	You shall co-operate with us promptly and without undue delay in the performance of the Contract within the agreed timescales, and provide promptly all instructions, materials (including Customer Materials) and information we need from you to perform the Contract. You are required to perform your obligations under the contract promptly and without undue delay, and time for our performance of the Contract shall automatically be extended by delays in performance by you of your obligations under the Contract. In the event of any delays caused by you, we may elect to defer the Deliverables, so as to enable us to perform any other contracts which were planned to be produced or performed after your Deliverables, where these would otherwise be delayed. We may make an Additional Charge for all additional or wasted time, costs and expenses suffered or incurred by us as a direct or indirect result of any act or omission of yours, including any delay by you in performing the Contract, or due to any request, act or omission of your part. You shall have no right to defer or cancel the Contract (except for repudiatory breach on our part).
Working Hours	Unless otherwise stated, we are only obliged to produce and provide the Deliverables during our normal working hours of 8am to 6.30pm, Monday to Friday, excluding bank and public holidays. We may make an Additional Charge for any work outside these hours, and a premium may be applied to any labour charges for working outside these hours. We may make an Additional Charge for any additional costs or expense suffered or incurred as a result of working outside these hours.
Quantity (Unders and Overs)	Where a quantity of units of Goods or Service Outputs is to be supplied, we shall be entitled to supply that quantity to within a margin of +/- 5% of the quantity stated in the Contract Terms or any subsequently agreed final Specification. This means that for any shortfall up to and including 5%, we will be considered to have fulfilled the Contract, we will not be obliged to supply the shortfall, and we will not charge you the Price for such shortfall. This also means that for any excess up to and including 5%, you agree to accept such excess, and we will not charge you for it.
File Copies	We will not be obliged to produce or supply to you any file copy of any Goods or Service Outputs, or any other copies beyond the quantity expressly stated in our Quotations, and if you require a file copy we may make an Additional Charge for this. If we do agree to supply a file copy, then unless otherwise expressly stated in our Quotations, such file copy will be a single copy delivered to the same Delivery Address as the associated Goods or Service Outputs which it is a file copy of, at the same time as the Goods or Service Outputs, by first class post, and if you require any other copies, or delivery to another delivery address or by another method, we may make an Additional Charge for this.
Instructions	All instructions to us should be made clearly and in writing, promptly and without undue delay, and we may refuse to accept your instructions and may defer performance of the Deliverables if we do not receive your instructions in writing and promptly. We may rely on verbal and written instructions given by telephone or otherwise, by any of your officers, employees, or agents, as being given by you, and our records and evidence of such instructions shall be presumed to be correct unless proven otherwise by you.
Tolerances	We are reliant on our machinery and that of our sub-contractors and we shall be entitled provide the Deliverables within our or their standard range of tolerances unless otherwise agreed. You acknowledge that the quality of the final Goods and Services outputs may vary against the Proofs, including due to differences in equipment, paper, inks and other conditions between proofing and production runs, and a reasonable variation (better or worse) shall be allowed.
Paper	Where the type of and/or supply of paper is not specified for any Deliverables, then we may make an Additional Charge to cover the cost of the paper chosen. Where the type of paper is specified, we may supply that paper or substantially similar paper.
Personal Data	If we are to process any personal data as part of the services (such as with respect to targeted direct mail services), then we will do so in accordance with your instructions, and we will take appropriate technical and organisational measures against unauthorised or unlawful processing and accidental loss, damage or destruction of any copy of the personal data held by us.
Confidence	We will maintain confidential all information of a confidential nature that you provide to us in connection with the Contract. We may disclose such information in confidence to any sub-contractor to enable them to perform their sub-contract with us.
No Unlawful Acts	We shall not be obliged to produce or provide any Deliverables, or process any Customer Materials, where those Customer Materials are in any way unlawful, or to do so would, or may in our absolute opinion, result in you or us committing an unlawful act. You promise that all Specifications are not unlawful and that our production or provision of any Deliverables, or processing of any Customer Materials, will not result in you or us committing an unlawful act. You shall indemnify us from and against any claims, legal proceedings, liability, fines, loss, damage, damages, costs and expenses (including legal costs incurred by us or awarded against us) which we may suffer or incur as a result of any breach of the above promise, including in relation to the handling, defence or settlement of any such claims or legal proceedings. In this Condition, "unlawful" and "unlawful act" means anything that is unlawful or unlawful act, in any relevant part of the world, whether civil or criminal, including: (1) defamation and defamatory materials; (2) infringement of intellectual property rights; (3) breach of confidentiality; (4) any offence or crime; (5) any breach of a statutory or other legal duty or prohibition; or (6) any act or omission which may result in any liability or fine or give any person a cause of action.
Archiving	We may, at our sole discretion, retain a copy of all Specifications, and all Customer Materials and other information provided by you, and all other materials concerning the Contract, including a file copy of the Goods and Service Outputs, for as long as we deem necessary. However we shall not be obliged to do so, and we may, at our option, destroy and securely erase any materials connected with the Contract without notice to you, including all copies of Specifications and Customer Materials held by us. If you want a copy of any Specifications held by us, or a copy of any Customer Materials held by us, we may make an Additional Charge for providing the same.

8. DELIVERY	
Readiness	We will inform you when the Deliverables are ready. You shall take delivery of the Deliverables when they are ready.
Delivery Address	Delivery of the Goods and Service Outputs will only take place at the Delivery Address. If you wish to change the Delivery Address, we may make an Additional Charge to cover any wasted or extra costs as a result of delivering to that changed address.
Transport by us	If the Delivery Address is not our premises, then unless otherwise agreed, we will arrange for the Goods and Service Outputs which are physical items to be transported to the Delivery Address, and you must take possession of them when first presented at the Delivery Address. We make an Additional Charge for returning any Goods or Service Outputs to our premises when delivery cannot be made on any attempt for any reason, and for each additional delivery attempt we make. Where we are transporting any Goods or Service Outputs, the time for transportation will be according to the times offered by any third party postal, delivery or courier service we use, and our liability for delays caused by them shall be limited to the amount of their offered liability to us, and we will pass on to you any refund of transportation charges provided by them.
Collection by you	If the Delivery Address is our address, or the other Contract Terms state or imply that you are to collect the Goods or Service Outputs which are physical items from the Delivery Address, you must collect the Goods and Services from the Delivery Address strictly within 1 day of our informing you that they are ready.
Incoterms	If we are to transport the Goods or Service Outputs to premises other than our own, then the DDU (Delivered Duty Unpaid) Incoterms shall apply, from the latest version of Incoterms at the date the Contract is made. If you are to collect the Goods or Service Outputs from any address, then the EXW (Ex-Works) Incoterms shall apply, from the latest version of Incoterms at the date the Contract is made.
Loading and Unloading	You are responsible for loading and unloading of Goods and Service Outputs, unless otherwise stated in a Quotation.
Receipt	You must sign any note requested by us to acknowledge receipt of the Goods and Service Outputs, before we are obliged to hand over possession of them to you, and we may treat it as a failed delivery attempt if such receipt is not signed.
Passing of Risk	All Goods shall be at your risk from delivery, and accordingly, if you collect the Goods or Service Outputs from our premises, you bear the risk from the point loading commences, and if we are transporting the Goods or Service Outputs, you bear the risk from the point unloading commences.
Packaging	You shall be responsible for safe disposal of all pallets, boxes and packaging in or on which the Goods and Service Outputs are supplied and left with you.
Reservation of Title	Title (including legal and beneficial) to the Goods and any Service Outputs (other than Customer Materials) is reserved by us and shall not pass to you until you have paid in full all Charges and VAT thereon in cash or cleared funds.
Items left at our premises	If any Goods, Service Outputs or Customer Materials (including anything supplied before the Contract was made), or any materials procured by us to perform the Contract, ("Left Items"), remain at our premises: (a) for more than 2 days after we request you to collect them, then we may make an Additional Charge for storage and insurance of such Left Items, and (2) for more than 5 days after we request you to collect the Left Items, then you agree that title to the Left Items shall automatically transfer to us and that we may proceed to sell, destroy, recycle, dispose of, or do anything else with them at our sole and absolute discretion. If we sell any Left Items which were owned by you, we will account to you for any proceeds of sale, less costs of sale and transportation and less any amounts

	you are obliged to pay us under the Contract. If we destroy, recycle or dispose of any Left Items, we may make Additional Charge for this. You shall indemnify us against any claims from any owner of any Left Items resulting from any action we take under this Condition.
9. CHARGES	
Payment Obligation	You agree to pay all Charges (including the Price and all Additional Charges), together with any VAT, in accordance with the Contract Terms. For the avoidance of doubt, you must pay for all for all work carried out by us in connection with the Contract, whether experimentally or otherwise, at your request. Any advance payment you make shall be considered to be a deposit, and will not be refundable if the Contract is terminated, unless validly terminated due to our breach. Unless we allow an invoice payment period or other credit period in our Quotation, we shall not be obliged to commence performance of the Contract until all Charges (including any estimated amount of any Charges) have been paid by you in full in cash or cleared funds.
Discounts	Unless otherwise expressly stated in our Quotation, all Charges stated by us are stated after any offered discounts have been applied. If you defer any Deliverables under the Contract, then we may withdraw any discount and increase the Charges accordingly.
Fixed and Estimated Charges	Any Charge quoted or stated is an estimate only, unless it is expressly stated in writing by us to be a fixed Charge in the Quotation. Where a Charge is an estimated Charge, you shall pay the greater of the estimated Charge, or a Charge calculated on a time and materials basis as detailed further below.
Transport Costs	Unless otherwise stated in the other Contract Terms, the Price excludes, and we may make an Additional Charge for collection of any Customer Materials from you, and transportation of the Goods and Service Outputs to any Delivery Address, including for freight and carriage, insurance in transit, import and export duties and taxes, compliance with import and export requirements.
Packaging Costs	Unless otherwise stated in the other Contract Terms, the Price excludes, and we may make an Additional Charge for packing and packaging of the Goods and Service Outputs suitable for transport, including the cost of cartons and pallets and other packaging materials.
Time and Materials	Where the amount of any Charge is not fixed or stated, or where this Condition is expressly apply to a Charge, then that Charge shall be a reasonable amount specified by us, applying our standard rates and tariffs, and shall include: (1) time spent by our staff or sub-contractors, with a premium for work outside our normal working hours; (2) materials at our list price or at cost plus our standard mark-up; and (3) all other costs, expenses and third party charges incurred in providing the Deliverables (including data transfer costs) at cost plus our standard mark-up.
Cost Variation	We may increase any Charges for which an amount has been fixed or estimated, including in any Quotation, by a reasonable amount to account for any increase in our costs (including materials costs and charges of sub-contractors and third parties) occurring at any time.
Staff Travel Expenses	Unless otherwise stated in the other Contract Terms, the Price and all other Charges exclude, and we may make an Additional Charge for any travel, accommodation, subsistence and other expenses incurred by our officers or staff working away from our own premises where required to perform the Contract.
VAT	All Charges are exclusive of VAT which you shall pay in addition at the same time as the Charges at the applicable rate. You must pay all Charges without deduction on account of any taxes which you are obliged to charge on, withhold or deduct from them, and the Charges shall be grossed-up by the amount of any such taxes.

10. INVOICING	
Invoice Point	Unless otherwise stated in our Quotation, we may invoice you for all Charges (including the estimated amount of any Charges) on or at any time after this Contract is made. Notwithstanding what may be said in our Quotation, we may invoice you for all Charges for any Deliverables when they have been substantially completed or on dispatch or when we inform you they are ready for dispatch, so that if the Deliverables are provided in instalments, parts or stages, we may invoice you for each such instalment, part or stage on substantial completion, dispatch or readiness of that instalment, part or stage. Notwithstanding what may be said in our Quotation, we also have the right to interim invoice you for a Work In Progress Charge at the end of each calendar month, for all work done, and cost and expense incurred, in relation to the production or performance of the during the calendar month.
Postage Charges	Notwithstanding what may be said in our Quotation, we may invoice for all Postage Charges at any time after we enter into the Contract with you. We shall not be obliged to engage any postal or other transport service, any we may delay dispatch of any Deliverables, until the Postage Charges have been paid by you in full in cash or cleared funds.
Additional Charges	We may invoice you for any Work In Progress Charge or other Additional Charge in advance of, or, at our discretion, after, the occurrence or completion of the incident, services, work, cost or expense to which the Work In Progress Charge or other Additional Charge relates.
Acceleration of Invoicing	If you commit any breach of the Contract (other than any trivial breach), or we are delayed in performing the Contract because of any act or omission of yours, or at your request, then we may invoice you for all the Charges (including the estimated amount of Charges), or at our option, a Work In Progress Charge, immediately and you shall pay such invoice immediately on receipt.

11. PAYMENT TERMS	
Payment Period	Unless otherwise stated in our Quotation, our invoices shall be payable by the date scheduled for commencement of performance of the Contract, or if no date is scheduled, immediately on receipt of invoice.
Currency	Unless otherwise stated in our Quotation, all payments shall be made by you in pounds sterling.
Method	Unless otherwise stated in our Quotation, all payments shall be made by you by bank transfer to such account as we may specify.
No Set-Off	All Charges shall be paid by you, and all other payments shall be paid by you, in full, without set-off, deduction, counter-claim, or withholding.
Late Payment	If any Charge or other amount payable by you to us, under this or any other contract between us, is not paid by the due date, then (without affecting any other rights we may have), the following terms shall apply: (1) any invoice payment period or credit period under this and under all such other contracts shall cease to apply, so that all invoices of ours, under this or any other contract, shall be payable on receipt; (2) you shall pay as an Additional Charge and there shall automatically accrue, daily interest on the unpaid amount from the due date until the date of payment (whether before or after judgement), at a monthly interest rate of 2.5%; (3) if such amount is not paid within 14 days of our demanding payment from you in writing, we shall be entitled, by further written notice to you, to suspend further performance of this Contract and any other contract between us, until payment is made in full of such amount; and (4) if such amount is not paid within 30 days of our demanding payment from you in writing, we shall be entitled, at any time thereafter, until payment is made in full, to terminate the Contract and/or any other contracts between us, in which case we may also make a Work In Progress Charge.

12. INTELLECTUAL PROPERTY	
Your IPR	We acknowledge that all Intellectual Property Rights in the Customer Materials are your property. You licence us to edit, adapt, translate, modify, copy and process all Customer Materials to provide the Deliverables, and you warrant that our doing so will not infringe any Intellectual Property Rights of a third party. You permit us to grant sub-licences under such licence where we are sub-contracting any part of the Deliverables.
Our IPR	You acknowledge that all Intellectual Property Rights in the Specifications, Source Files, Goods and Service Outputs (other than in any Customer Materials) shall be and remain our absolute property. All express or implied licences or assignments in relation to such Specifications, Source Files, Goods and Service Outputs (other than in any Customer Materials) or any Intellectual Property Rights therein are hereby excluded.

13. CLAIMS TIME LIMITS AND HANDLING	
Loss In Transit	Where we are to transport any Goods or Service Outputs to any place other than our own premises for delivery, we shall not be liable for any delay in delivery or non-arrival of such Goods or Service Outputs, unless you have notified us in writing within 7 days after the day we informed you of dispatch of such Goods or Service Outputs.
Missing or damaged items	We shall not be liable for any Goods or Service Outputs missing from any delivery made (when they were purported to have been included in that delivery), or for damage present in the Goods or Service Outputs at the point of delivery, unless you have notified us in writing within 24 hours of delivery.
Quality Claims	We shall not be liable to you in any way for, and you shall not be entitled to reject any Deliverables, for non-conformity of any Deliverables with the requirements of the Contract, unless you have notified us in writing, in the case of the Goods or Services Outputs, within 7 days of delivery, and, in the case of Services, within 7 days of completion of those Services. Any usage of the Goods and Services Outputs, including your forwarding the Goods or Services on to a third party, will be deemed to be your acceptance that they conform to the requirements of the Contract.
Inspection	You must allow us to inspect at your premises or collect for inspection all Goods and Services Outputs delivered to you and all associated packaging without delay. We may make a reasonable Additional Charge for any such inspection, and any collection and return of any Goods and Services Outputs, if we are not found to be in breach of the Contract.
Remedy Opportunity	Where any Deliverables are not in conformity with the Contract, including where they are missing from a delivery, are not delivered after dispatch, are damaged on delivery, or do not meet the

	requirements of the Contract, you shall give us a reasonable opportunity to remedy the non-conformity. You must return to us on request, and allow us to collect, without undue delay, any Deliverables which we are replacing. We may make a reasonable Additional Charge for providing any such remedy if we are not found to be in breach of the Contract.
Installments	Where the Deliverables are to be provided in stages or instalments, the any non-conformity of the Deliverables under any stage or instalment shall not be grounds for rejection of or a refund in respect of any previously delivered or completed stage or instalment.

14. EXCLUSION AND LIMITATION OF LIABILITY

Liability Excluded and Limited	In the Contract, references to our being liable to you, or to our liability to you, shall include: (1) any liability we may have whatsoever arising under or out of, in connection with, or in the course of performing, the Contract; (2) our liability for breach of the Contract, including to refund all or any part of the Charges; (3) our liability for or in respect of tort, negligence, or breach of statutory or common law duty; (4) any liability to you imposed on us by statute or common law; (5) vicarious liability to you; and (6) liability to you for accidental or negligent misrepresentation.
Liability Not Limited	We do not limit or exclude our liability to you for: (1) death or personal injury resulting from our negligence; or (2) fraud or fraudulent misrepresentation.
Excluded Types of Loss	Except for our liability covered by the Condition headed "Liability Not Limited", we shall not be liable to you for: (1) any loss of profit, revenue, use, expectation, anticipated savings, production, business, contract or goodwill; (2) any costs or expenses, liability, commitment, contract or expenditure entered into, incurred or wasted by you in reliance on the Deliverables being provided in accordance with the Contract; (3) any losses suffered by third parties, or your liability to third parties; or (4) for any special, indirect or consequential loss of any kind.
Loss or damage to property	With the exception of liability covered by the Condition entitled "Liability Not Limited", our liability to you for loss of or damage to any physical property (including Customer Materials) lost, damaged or destroyed, shall be limited to £100,000 per incident, or if there is more than one incident arising out of the same cause, for all such incidents in the aggregate.
General Limitation	With the exception of liability covered by the Condition entitled "Liability Not Limited", our total liability for all events giving rise to liability to you in aggregate shall be limited to 140% of the fixed or estimated amount stated as the Price when the Contract was made. If the foregoing cap is not enforceable, then our total liability to you or all events giving rise to liability to you in aggregate shall be limited to £20,000. If any of the foregoing caps are not enforceable, then our total liability to you per incident, or if there is more than one incident arising out of the same cause, for all such incidents in the aggregate, shall be limited to £20,000.
Force Majeure	We shall not be liable to you for non-performance or late performance of the Contract due to any event or circumstance of force majeure. In addition, if due to any event or circumstance of force majeure, we have insufficient manpower, manufacturing capacity, stocks, or other resources to meet all our contractual commitments to you and to third parties, we shall be entitled to apportion the available resources to such contracts as we may decide in our sole discretion, and we shall not be liable to you for non-performance or late performance of the Contract due to our not apportioning resources to this Contract. If we elect to rely on this Condition with respect to any event or circumstance of force majeure, then when we inform you of this, and for so long as we do rely on this Condition, you may by written notice to us terminate the Contract, but in such case we may make an Work In Progress Charge. Force majeure includes: (1) Act of God; (2) war, threat of war, terrorism, riot, civil commotion, public demonstration, blockade, or sabotage; (3) the act of any government, government authority or legislature; (4) industrial action (including our own employees); (5) illness or other unavailability of staff for any reason; (6) lightning, fire, explosion, storm, flood, earthquake, accumulation of snow or ice, or drought; (7) failure of plant and machinery (unless due to a failure to properly maintain); (8) shortages (including of labour, fuel, utilities, and raw materials) and any other inability to procure materials required for the performance of the Contract; (9) vandalism, theft and other criminal action, interruption or failure of utilities; (10) any event or circumstance beyond our reasonable control; and (11) any force majeure affecting any carriers, sub-contractors or suppliers.

15. INSOLVENCY

If you suffer an insolvency event, then we shall be entitled whilst such insolvency event continues, to suspend the Contract, and to terminate the Contract (whether or not it has first been suspended), and in either such case we may make a Work In Progress Charge. An "insolvency event" means you (or any of your partners, if a partnership): (1) cease to pay your debts in the ordinary course of business, or cannot pay your debts as they become due, or are deemed by law to be unable to pay your debts; (2) become insolvent or bankrupt; (3) are liquidated dissolved or wound-up; (4) enter administration; (5) have a receiver or administrative receiver appointed over all or any of your business or assets; (6) are subject to an interim order; (7) make an assignment for the benefit of or otherwise make any arrangement or compromise with your creditors generally or any class of them; (8) have taken against you or take any steps are taken to achieve any of the same; or (9) are subject to any event or circumstance in any part of the world which is analogous to or similar to the foregoing.

16. GENERAL

Assignment	You may not assign or transfer the Contract or your rights in connection with it without our prior written consent.
Sub-Contracting	We may sub-contract our obligations under the Contract.
No Third Party Rights	The Contract shall not benefit or be enforceable by any person other than you and us, and the Contract (Rights of Third Parties) Act 1999 shall not apply. We assume no duty of care to any third party.
Invalid Terms	Each of the Contract Terms is separate and severable. If any Contract Term is held to be void or invalid the remaining Contract Terms shall continue in full force and effect.
Waiver	No failure, delay or forbearance by us in enforcing any Contract Term or exercising any right or remedy shall constitute a waiver of such term, right or remedy.
Recovery Costs	You shall pay to us on demand all costs and expenses (including all fees and costs payable to any court, debt recovery agents, bailiffs, and legal advisors) incurred by us in recovering any amounts payable under the Contract or otherwise enforcing this Contract, and in defending any claims against us in connection with the Contract where our defence is wholly or partially successful.
Interpretation	In the Contract: (1) a reference to a "person" includes a reference to a company or other body corporate, association, partnership or individual; (2) a reference to the singular shall include the plural and vice versa; (3) a reference to any "materials" includes any text, copy, graphics, images, logos, photographs, audio, video, illustrations, works, artwork, ideas, content, designs, drawings, documents, papers, or property; (4) the word "include" shall be deemed to be followed by the words "without limitation"; and (5) a reference to a statute shall be as amended or replaced, and all subordinate legislation under it from time to time, and shall include all amendments and replacements from time to time.
Law and Jurisdiction	The Contract shall be governed by the laws of England and Wales. You submit to the exclusive jurisdiction of the courts of England and Wales in relation to the Contract and all contractual and non-contractual disputes. We shall be entitled to enforce this Contract in the courts of England and Wales or of any jurisdiction where you are established, domiciled or resident.