

## **Terms and Conditions of Sale**

### **Definitions**

1. In these conditions the following terms will have the following meaning: "Company" means Photolithics OOD, with its place of business at ul. Aleksandrovska, 7000 Ruse, Bulgaria. "Customer" means the customer of the Company. "Contract" means for the sale of Goods or Services by the Company to the Customer. "Goods" means any goods forming the subject of this Contract including parts and components of, or material incorporated in them, or software.

### **Quotation**

2. Quotations by the company unless otherwise stated in them will be open for acceptance within 30 days of the date of the quotation.

#### Existence of Contract

3.1 No Contract will come into existence until the Customer's order (however given) is accepted by the earliest of the Company's written acceptance, delivery of the Goods, and the Company's invoice.

3.2 These conditions shall be incorporated in the Contract to the exclusion of any terms or conditions stipulated or referred to by the Customer.

3.3 No variation or amendment of the Contract or oral promise or commitment relating to it shall be valid unless committed to writing and signed by or on behalf of both parties.

### **Prices**

4.1 The prices for the goods are ex-works and exclude packing, insurance and carriage, VAT, and other taxes or duties. Prices invoiced are calculated in respect of the quantity of Goods actually delivered irrespective of the quantity in respect of which any quotation was issued.

4.2 The Company shall have the right in respect of any uncompleted portion of the Contract to adjust its prices for any increase in the price of materials, parts, labour, transport, changes in work or delivery schedules or quantities or any other costs of any other kind arising for any reason after the date of the Contract.

4.3 Price changes shall take effect on the date of service on the Customer of notice of the change.

### **Payment**

5.1 All invoices are payable without discount of any kind in pounds sterling or Euro in 30 days of the date of the Company's invoice and in no circumstances shall the Customer be entitled to make any deduction or set-off or withhold payment for any reason at all.

5.1 Without prejudice to any other rights of the Company if the Customer fails to pay the invoice price by the due date the Customer shall pay interest on any overdue amount from the date on which payment was due to that on which it is made (whether before or after judgement) on a daily basis at a rate of 4 % p.a. over the base rate from time to time quoted by the National Bank of Germany and reimburse to the Company all costs and expenses (including legal costs) incurred in the collection of any overdue amount.

### **Title**

6.1 Notwithstanding the earlier passing of risk, title in the Goods shall remain with the Company and shall not pass to the Customer until the amount due under the invoice for them (including interest and costs) has been paid in full.

6.2 Until title passes the Customer shall hold the Goods as bailee for the Company and shall store or mark them so that they can at all times be identified as the property of the Company.

6.3 The Company may at any time before title passes and without any liability to the Customer:

6.3.1 repossess and dismantle and use or sell all or any of the Goods and by doing so terminate the Customer's right to use, sell or otherwise deal in them, and

6.3.2 (for that purpose of determining what and if any Goods are held by the Customer and inspecting them) enter any premises of or occupied by the Customer.

6.4 Until title passes the entire proceeds of sale of the Goods shall be held in trust for the Company and shall be held in a separate designated account and not mingled with other monies or paid into any overdrawn bank account and shall be at all times identifiable as the Company's money.

6.5 The Company may maintain an action for the price of any Goods notwithstanding that title in them has not passed to the Customer.

### **Risk, Delivery and Performance**

7.1 The Goods are delivered to the Customer when the Company makes them available to the Customer or any agent of the Customer or any carrier (who shall be the Customer's agent whoever pays its charges) at the Company's premises or other delivery point agreed by the Company.

7.2 Risk in the Goods passes when they are delivered to the Customer or Customer's shipment agent.

7.3 The Company may at its discretion deliver the Goods by instalments in any sequence.

7.4 Where the Goods are delivered by instalments, no default or failure by the Company in respect of any one or more instalments shall vitiate the Contract in respect of the Goods previously delivered or undelivered goods.

7.5 The Company may deliver to the Customer and the Customer shall accept in satisfaction of the Contract a lesser or greater number than the number of Goods ordered.

7.6 Any dates quoted by the Company for the delivery of the Goods are approximate working days only and shall not form part of the Contract and the Customer acknowledges that in the performance expected of the Company no regard has been paid to any quoted delivery dates.

7.7 If the Customer fails to take delivery of the Goods or any part of them on the due date, and to provide any instructions or documents required to enable the Goods to be delivered on the due date, the Company may on giving written notice to the Customer store or arrange for the storage of the Goods, and on the service of the notice risk in the Goods shall pass to the Customer, delivery shall be deemed to have taken place, and the Customer shall pay to the Company all costs and expenses including storage and Insurance charges arising from its failure.

7.8 The Company shall not be liable for any penalty, loss, injury, damage or expense arising from any delay or failure in delivery or performance from any cause at all nor shall any such delay or failure entitle the Customer to refuse to accept any delivery or performance of or repudiate the Contract.

### **Claims Notification**

8.1 Any claim for non-delivery of Goods shall be notified in writing by the Customer to the Company within 10 days of the date of the Company's invoice.

8.2 Any claim that any Goods have been delivered damaged, are not of the correct quantity or do not comply with their description shall be notified by the Customer to the Company in 7 days of their delivery.

8.3 Any alleged defect shall be notified by the Customer to the Company in 7 days of the delivery of the Goods or in the case of any defect which is not reasonably apparent on inspection in 7 days of the defect coming to the Customer's attention and in any event in 2 months of the delivery of the Goods.

8.4 Any claim under this condition must be in writing and must contain full details of the claim including the part numbers of any allegedly defective Goods.

8.5 The Company shall be afforded reasonable opportunity and facilities to investigate any claims made under this condition and the Customer shall promptly return all Goods the subject of any claim securely packed and carriage paid to the Company for examination. Such Goods returned for inspection shall be in the condition in which they were supplied.

8.6 The Company shall have no liability with regard to any claim in respect of which the Customer has not complied with the claims procedure in these conditions.

### **Scope of Contract**

9. Under no circumstances shall the Company have any liability whatever kind for:

9.1 any defects resulting from wear and tear, accident, improper use by the Customer or use by the Customer except in accordance with the Instructions or advice of the Company or neglect or from any instructions technical data or materials provided by the Customer;

9.2 any Goods which have been adjusted, modified or repaired except by the Company;

9.3 the suitability of any Goods for any particular purpose or use under specific conditions whether or not the purpose or conditions were known or communicated to the Company;

9.4 any substitution by the Company of any materials not forming part of any specification of the Goods agreed in writing by the Company;

9.5 any descriptions, illustrations, specifications, figures as to performance, drawings and particulars of weights and dimensions submitted by the Company contained in the Company's catalogues, price lists or elsewhere since they are merely intended to represent a general idea of the Goods and not to form part of the Contract or to be treated as representations.

9.6 any technical information, recommendations, statements or advice furnished by the Company its servants or agents not given in writing in response to a specific written request from a Customer before the Contract is made; or

9.7 any variations in the quantities or dimensions of any Goods or changes of their specifications or their substitution of any materials, if the variation or substitution does not materially affect the characteristics of the Goods, and the substituted materials are of a quality equal or superior to those originally specified, unless the Contract explicitly states other terms and conditions in respect to change management.

### **Extent of Liability**

10.1 The Company shall have no liability to the Customer for any loss or damage of any nature arising from any breach of any express or implied warranty or condition of the Contract or any negligence, breach of statutory or other duty on the part of the Company or in any other way out of or in connection with the performance or purported performance of or failure to perform the Contract except:

10.1.1 for death or personal injury resulting from the Company's negligence, and

10.1.2 as expressly stated in these conditions.

10.2 If the Customer establishes that any Goods have not been delivered, have been delivered damaged, are not of the correct quantity or do not comply with their description the Company shall, at its option, replace with similar goods any Goods which are missing, lost or damaged or do not comply with their description, allow the Customer credit for their invoice value or repair any damaged Goods.

10.3 If the Customer establishes that any Goods are defective the Company shall, at its option, replace with similar goods or repair any defective Goods or allow the Customer credit for their invoice value.

10.4 The delivery of any repaired or replacement Goods shall be at the Company's premises or other

delivery point specified for the original Goods.

10.5 Where the Company is liable in accordance with this condition in respect of only some or part of the Goods the Contract shall remain in full force and effect in respect of the other parts of the Goods and no set-off or other claim shall be made by the Customer against or in respect of such other parts of the Goods.

10.6 No claim against the Company shall be entertained for any defect arising from any design or specification provided or made by the Customer or if any adjustments, alterations or other work has been done to the Goods by any person except the Company.

10.7 The Company shall not be liable where any Goods the price of which does not include carriage are lost or damaged in transit and all claims by the Customer shall be made against the carrier. Replacements for such lost or damaged Goods will, if available, be supplied by the Company at the prices ruling at the date of despatch.

In no circumstances shall the liability of the Company to the Customer under this condition exceed the invoice value of the Goods.

### **General**

11.1 The Company may sub-contract the performance of this Contract in whole or in part.

11.2 The Company shall have a lien on all the Customer's property in the Company's possession for all amounts due at any time from the Customer and may use, sell or dispose of that property as agent for and at the expense of the Customer and apply the proceeds in and towards the payment of such amounts on 28 days' notice in writing to the Customer. On accounting to the Customer for any balance remaining after payment of any amounts due to the Company end the costs of sale or disposal the Company shall be discharged of any liability in respect of the Customer's property.

11.3 The Company may at its discretion suspend or terminate the supply of any Goods if the Customer fails to make any payment when and as due or otherwise defaults if any of its obligations under the Contract or becomes insolvent, has an administrative receiver appointed of its business or is compulsorily or voluntarily wound up or the Company bona fide believes that any of those events may occur

11.4 If the Goods are manufactured in accordance with any design or specification provided or made by the Customer the Customer shall compensate the Company in full on demand for all claims, expenses and liabilities of any nature in connection with them, including any claim, whether actual or alleged, that the design or specification infringes the rights of any third party.

### **Cancellation**

12 Orders for Goods will be charged in full unless written notice of cancellation is received not later than 4 (four) weeks before the expected delivery date quoted in the Company's order acknowledgement and manufacture of them has not commenced at the date of that notice.

### **Force Majeure**

13 The Company shall not be liable for any failure in the performance of any of obligations under the Contract caused by factors outside their control.

### **Law and Jurisdiction**

14 The Contract shall be governed by German Law and the Customer consents to the exclusive jurisdiction of the courts of Nuremberg, Germany in all matters regarding it except to the extent that the Company invokes the jurisdiction of the courts of any other country.

### **Notices**

15.1 Any notice given under the Contract shall be in writing and may be served:

15.1.1 personally

15.1.2 by registered or recorded delivery mail

15.1.3 by facsimile transmission, or by any other means which either party specifies by notice to the other.

15.2 Each party's address for the service of notice shall be in the case of the Customer as set out in the order or quotation and in the case of the Company as set out in the acceptance of Order address or such other address as may be specified by notice to the other,

15.3 A notice shall be deemed to have been served:

15.3.1 if it was served in person, at the time of service

15.3.2 if it was served by post, 48 hours after it was posted, and

15.3.3 if it was served by email or facsimile transmission, at the time of transmission.