

csidesign terms and conditions of sale

DEFINITIONS

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| Supplier: | CSI Design |
| Buyer: | The party to whom the Supplier supplies / sells their goods and/or services to. |
| Works: | The goods and/or services supplied/sold by the Supplier. |
| Site: | The final destination for the supply of goods and/or services to the Buyer. |
| Go-Live: | The date on which an internet-based product or service is launched on a live server. |
| Delivery: | The date on which goods or services are completed and/or delivered to the Buyer - as determined by the Supplier |
| Order: | The document from the Buyer confirming their intent and requirement. |
| Conditions: | These General Terms and Conditions of Sale. |
| Parties: | The Buyer and Supplier. |
| Contract: | The binding agreement between the Supplier and Buyer in respect of the supply of goods and/or services by the Supplier to the Buyer. The Buyer is deemed to have entered into a Contract with the Supplier upon request for the commencement of work. |
| Working day: | Any day which is not a Saturday, a Sunday or a Public Holiday. |
| Calendar days: | Any day including Saturday, a Sunday or a Public Holiday. |

1: BASIS OF THE SALE

- The Supplier shall supply/sell and the Buyer shall purchase the goods and/or services in accordance with the last written quotation of the Supplier prior to commencement of the Supplier's Works subject in either case to these Conditions, which govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purposed to be accepted, or any such order is made or purposed to be made by the Buyer.
- No variation to these Conditions shall be binding unless agreed in writing between the Parties save where the Buyer by way of variation of the Contract enjoys betterment to the Contract such betterment that shall entitle the Supplier to additional payment of the cost of additional works plus overheads and profit and any consequential loss. The Supplier is not obliged to undertake any variation without their express agreement such agreement that can be withheld at the Supplier's discretion.
- The Supplier's Employees or agents are not authorised to make any representations concerning the goods and/or Services unless confirmed by the Supplier in writing. The Buyer acknowledges that it does not rely on and waives any claim for breach of any such representations which are not so confirmed.
- Any typographical, clerical or other error or omission in any sales literature, price list, quotation, invoice, application or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.

2: REGULATION IN FORCE AT DESTINATION

- The Buyer shall inform the Supplier of all laws governmental or other regulations which must be observed during the execution of the contract. Any alterations and/or amendments after the date of the Order and/or Supplier's quotation shall be treated as a variation to the Contract and shall entitle the Supplier to additional payment of the cost of additional works plus overheads and profit and any consequential loss notwithstanding clause 1(b) of these conditions.

3: ORDERS AND SPECIFICATIONS

- The Buyer shall be responsible to the Supplier for ensuring the accuracy of the terms of any Order (including any applicable specification) submitted by the Buyer or Supplier and for giving the Supplier any necessary information relating to the goods and/or services within a sufficient time to enable the Supplier to perform the Contract in accordance with its terms.
- The quantity, quality and description of and any specification for the goods and/or services shall be those set out in the Order or Supplier's quotation. The Supplier reserves the right to vary the Contract by way of making any changes in the specification of the goods and/or services which are required to conform with any applicable guideline or statutory requirements or where the goods and/or services are to be supplied to the Supplier's specification, which do not materially affect their quality or performance. Any such variation to the Contract shall entitle the Supplier to additional payment of the cost of additional works plus overheads and profit and any consequential loss notwithstanding clause 1(b) of these Conditions.
- The employment of the Supplier may not be terminated by the Buyer except with the agreement in writing of the Supplier and in any event on terms that the Buyer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including but not limited to the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of termination. The Supplier may terminate their employment without reason by way of a written notification of termination such termination shall have immediate effect. The Supplier shall have no liability for any loss incurred by the Buyer arising from such termination by the Supplier and the Buyer shall indemnify the Supplier against third party claims arising from such termination by the Supplier. Upon termination by either Party all monies payable by the Buyer to the Supplier shall become due for payment immediately. The final date for payment of such amounts due shall be within 7 Working days of the due date. Any other amounts payable by the Buyer to the Supplier, not ascertainable by the due date shall become due when ascertainable. The final date for payment of such amounts due shall be within 7 Working days of the due date.

4: PRICE OF THE GOODS

- The price of the goods and/or services shall be the Order sum or the Supplier's quotation as applicable.
- All prices quoted are open for acceptance by the Buyer for 30 Calendar days. The Supplier reserves the right at any time before delivery to increase the price of the goods and/or services to reflect any increase in the cost to the Supplier which is due to any factor beyond control of the Supplier (such as willful limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, increase in the costs of labour, materials or other costs of manufacture and supply of goods and/or services), any change in delivery dates, quantities or specifications for the goods and/or services which requested by the Buyer or required by the Supplier or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Supplier adequate information or instructions or any variation to the Contract.
- Except as otherwise stated under the terms of any Order or quotation by the Supplier all prices are given by the Supplier are exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Supplier.

5: PLACE OF FULFILMENT OF CONTRACT

- The place of fulfilment of Contract is the Supplier's premises. All design work by the Supplier is deemed fulfilled once completed to the Supplier's satisfaction.

6: TERMS OF PAYMENT

- Fees for services to be provided by the Supplier, will be set out in the written estimate or quotation that is provided to the Buyer. At the time of the Buyer's signed acceptance of this estimate or quotation, indicating acceptance of the Terms & Conditions, a nonrefundable deposit of 50% of the quoted fee will become immediately due unless agreed otherwise in the Contract. Work on the project will not commence until the Supplier has received this amount.
- At the Supplier's discretion the Buyer may be asked for full payment in advance through PayPal which covers both Buyer and Supplier for delivery of services - see website for details, www.paypal.com.
- Charges for any additional services over and above the estimated design, will become fully payable at the time of project acceptance.
- The Buyer will be asked to provide artwork sign off before, followed by an Invoice prior to print artwork/publication. At this time the Buyer will be asked to provide payment. Accounts which remain outstanding for 30 days after the date of invoice, will incur an extra charge of 2% per month of the outstanding amount.
- Payments may be made by BACS, cash, cheque, or PayPal or previously agreed electronic funds transfer.
- Publication and/or release of work done by the Supplier on behalf of the Buyer,

may not take place before funds have cleared unless agreed otherwise.

- Returned cheques will incur an additional fee of £50 per returned cheque. The Supplier reserves the right to consider an account to be in default in the event of a returned cheque.
- Payment in full is required prior to artwork being sent to print.

7: DELIVERY

- Any dates quoted for delivery and/or undertaking of goods and/or services are approximate only and the Supplier shall not be liable for any delay whatsoever caused. Time for delivery and/or undertaking of goods and/or services shall not be of the essence. The goods and/or services may be delivered and/or undertaken by the Supplier in advance of any agreed date at the Supplier's discretion which the Buyer may not refuse. Any prevention by the Buyer to the Supplier's Works being commenced at any date shall entitle the Supplier to payment by the Buyer of any direct or consequential costs incurred or likely to be incurred plus any loss of profit incurred or likely to be incurred by the Supplier as claimed by the Supplier.
- Subject to any special terms agreed in writing between the Buyer and the Supplier, the Supplier shall be entitled to alter delivery of the goods and/or services at the Supplier's discretion for which the Buyer shall have no right to seek reimbursement against the Supplier under Contract or otherwise.
- If the Buyer fails to take delivery of the goods and/or services or fails to give the Supplier delivery instructions of the time stated for delivery to the Supplier's satisfaction then without prejudice to any other right or remedy available to the Supplier, the Supplier may:
 - store the goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage and/or;
 - sell the goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) claim from the Buyer any shortfall below the price under the Contract. Any excess over the price recovered by the Supplier shall be retained by the Supplier.
- The times for delivery and/or completion of the Works in whole or in part are not binding upon the Supplier and the Supplier shall have no liability to the Buyer for any failure to deliver and/or complete by any dates stated within Contract or otherwise. The Buyer acknowledges that the Supplier has no such liability and shall accordingly be deemed to have allowed for any risk arising therefrom.
- The Buyer must provide to the Supplier's satisfaction access to any website hosting, domain hosting or email hosting accounts and/or services not being provided by the Supplier. Any failure by the Buyer shall be treated as a variation to this Contract for which the Supplier may claim any additional costs plus profit.

8: TRANSFER OF USE AND PASSING OF RISK

- Risk of damage to or loss in the goods and/or services shall pass to the Buyer in the case of goods and/or services to be delivered otherwise than at the Supplier's premises at the time of delivery or if the Buyer wrongfully fails to take delivery of the goods at the time when the Supplier has rendered delivery of the goods.
- Notwithstanding delivery and the passing of risk in the goods and/or services or any other provision of these Conditions the property in the goods and/or services shall not pass to the Buyer until the Supplier has received in cash or cleared funds payment in full of the amount claimed and claimable by the Supplier of the goods and/or services.
- Until such time as the property of the goods and/or services passes to the Buyer the Buyer shall hold the goods as the Supplier's fiduciary agent and bailee, and shall keep them identified as the Supplier's property. Until that time the Buyer shall be entitled to resell or use the goods in the ordinary course of its business but shall account to the Supplier for the proceeds of sale or otherwise of the goods and/or services whether tangible or intangible, including insurance proceeds and shall keep all such proceeds separate from moneys or property of the Buyer and third parties and in the case of tangible proceeds properly stored, protected and insured.
- Until such time as the property of the goods and/or services passes to the Buyer (and provided the goods and/or services are still in existence and have not been resold) the Supplier shall be entitled at any time to require the Buyer to deliver up the goods and/or services to the Supplier and, if the Buyer fails to do so forthwith to enter upon any premises of the Buyer or any third party where the goods are stored and repossess the goods.
- The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the goods and/or services which remain the property of the Supplier, but if the Buyer does so all moneys owing by the Buyer to the Supplier shall (without prejudice to any other right or remedy of the Supplier) immediately upon the making of a claim by the Supplier become due and payable within 7 Calendar days.

9: DISCLAIMER

- Please ensure that all artwork is checked thoroughly before publication. The Supplier does not accept responsibility for inaccurate, incorrect or incomplete information in artwork. This includes hyperlinks and URLs in digital media. The Supplier does not accept any responsibility for technical errors.
- The Buyer is responsible for approval of proofs, proof reading and errors.
- If the Supplier produces work that contains errors that are the responsibility of the Buyer then the Buyer is responsible for full production costs, as well as for the cost of producing the work a second time if the Buyer requests.
- If close colour matching is a requirement of the job, then the Buyer must let the Supplier know at the beginning of the job and specify PMS colours or otherwise provide colour samples. If the Buyer wants to check colour matching before production, a proof should be requested.
- If colour matching is critical to the project, the Supplier strongly urges the Buyer to request a colour proof printed at full size (usually consisting of a portion of the job as a whole that contains the colour(s) that need to be matched) before the job goes to print.
- If the resolution / print quality of the finished print is critical to the job the Supplier strongly urges the Buyer to request a proof printed at full size so that they can check and approve print resolution before the job goes to print.

- Each round of proofs adds to the standard turn-around time. If the Buyer requires a proof before the job goes to print, please allow sufficient time for the proofing process (usually an extra 2 to 3 days per round of proofs) in the scheduling of the project. Please note that there is a charge per set of proofs, plus shipping fees.

10: WARRANTIES AND LIABILITIES

- Any claim by the Buyer which is based on any defect in the quality or conditions of the goods and/or services or their failure to correspond with specification of the Contract shall (whether or not delivery is refused by the Buyer) be notified to the Supplier within 3 Calendar days from the date of delivery or attempted delivery or (where the defect or failure was not apparent on reasonable inspection) within 1 Calendar day of discovery of the defect or failure should have been known to the Buyer if delivery is not refused and the Buyer does not notify the Supplier accordingly. The Buyer shall not be entitled to reject the goods and/or services and the Supplier shall have no liability for such defect or failure and the Buyer shall be bound to pay the price as if the goods and/or services had been delivered in accordance with the Contract.
- Where any valid claim in respect of any goods and/or services which is based on any defect in the quality or conditions of the goods and/or services or their failure to meet the specification of the Contract is notified to the Supplier in accordance with these Conditions the Supplier shall be entitled to replace the goods and/or services (or the part in question) free of charge and unencumbered by the Buyer or, at the Supplier's sole discretion, refund to the Buyer the price of the goods and/or services (or a proportionate part of the price) but the Supplier shall have no further liability to the Buyer under Contract or otherwise.
- Except in respect of death or personal injury caused by the Supplier's negligence, the Supplier shall not be liable to the Buyer by reason of any representation or any implied warranty, conditions or other term or any duty at common law or under the express terms of the contract for any consequential loss or damage (whether

for loss of profit or otherwise) costs, expenses or other claims for consequential compensation whatsoever and whether caused by the negligence of the Supplier, its employees or agents or otherwise) which arise out of or in connection with the supply of the goods and/or services or their use or resale by the Buyer, except as expressly provided in the Conditions.

- The Supplier shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform any of the Supplier's obligations in relation to the goods and/or services, if the delay or failure was due to any cause beyond the Supplier's control. Without prejudice to the generality of the foregoing the following shall be regarded as caused beyond the Supplier's control.

- Force majeure, explosion, flood, tempest, fire or accident, or any other event insurable by the Buyer.
- War or threat of war, sabotage, insurrection, civil disturbance, terrorism or requisition.
- Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of the government or local authority.
- Import or export regulations or embargoes.
- Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Supplier or a third party in respect of the Works or affecting the Works).
- Difficulties in obtaining raw materials, labour, fuel, parts or machinery for reasons including the cost not being to the satisfaction of the Supplier.
- Power failure or breakdown in machinery.
- Any impediment, prevention or default, whether by act or omission, by the Supplier or any of the Supplier's employees or agents.

11: HOSTING

- If website, domain or email hosting is included in the Contract, the Buyer is deemed to have included for and must provide free of charge to the Supplier any necessary access username, password and code requirements.

12: INSOLVENCY OF BUYER

- This clause applies if:

- the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) become bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction), or
- any encumbrancer takes possession, or a receiver is appointed of any of the property or assets of the Buyer, or
- the Buyer ceases or threatens to cease, to carry on business or
- the Supplier reasonably in his opinion considers that any of the events mentioned above is about to occur to the Buyer and has notified the Buyer in writing accordingly and the period of 2 Calendar days has expired since notification and no response to the satisfaction has been received by the Supplier from the Buyer to the contrary.

- If this clause applies then without prejudice to any other rights or remedy available to the Supplier, the Supplier shall be entitled to terminate their employment under the Contract or suspended any further Work under the Contract without any liability to the Buyer. If goods and/or services have been delivered and/or undertaken but not paid for then payment shall follow as set out at clause 4(c) of these Conditions notwithstanding any previous agreement or arrangement to the contrary and the Supplier shall have the option of entering upon the premises of the Buyer or any third party where the goods are stored and repossess the goods.

13: INTELLECTUAL PROPERTY RIGHTS

- By supplying text, images and other data to the Supplier for inclusion in the Buyer's artwork or other medium, the Buyer declares that it holds the appropriate copyright and/or trademark permissions. The ownership of such materials will remain with the Buyer, or rightful copyright or trademark owner.
- Any artwork, images, or text supplied and/or designed by the Supplier on behalf of the Buyer, will remain the property of the Supplier and/or its suppliers, excluding Logo design in which full copyright will be passed to the Buyer upon receipt of full payment.
- The Buyer may request in writing from the Supplier, the necessary permission to use materials (or which the Supplier holds the copyright) in forms other than it was originally supplied for, and the Supplier may, at its discretion, grant this. Such permission must be obtained in writing before the Supplier will allow any of the aforesaid artwork, images, text, or other data to be used. The Supplier reserves the right to charge fees for additional usage.
- By supplying images, text, or any other data to the Supplier, the Buyer grants the Supplier permission to use this material freely in the pursuit of the design and to utilise the designs in the Supplier's portfolio unless agreed otherwise.
- Should the Supplier, or the Buyer supply an image, text, audio clip or any other file for use in a website, multimedia presentation, print item, exhibition, advertisement or any other medium believing it to be copyright and royalty free, the Buyer will agree to allow The Supplier to remove and/or replace the file.
- The client shall indemnify and hold the Supplier free from harm against all and any damages, liability, demands, loss, expenses and costs (including without limitation legal fees) suffered or incurred by or awarded against the Supplier in connection with or arising as a result of any action or claim that the Materials and/or their use infringe the Intellectual Property Rights of a third party or any applicable laws or regulations.
- If multiple design concepts are submitted, only one concept is deemed to be given by the Supplier as fulfilling the contract. All other artwork designs remain the property of the Supplier, unless agreed in writing.

14: GENERAL

- The Buyer shall be responsible for and shall indemnify the Supplier in respect of complying with any legislation or regulations governing the importation of the goods and/or services and into the country of destination and for payment of any duties thereon.
- If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected thereby.
- No waiver by the Supplier of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with the Scheme for Construction Contracts (England and Wales) Regulations 1998 save that the Buyer shall be liable for both Parties costs and the fees and expenses of the Adjudicator in any adjudication. Moreover the Adjudicator is given jurisdiction to deal with the matter of the parties costs and the Adjudicator's fees and expenses but only in so far as set out above in terms of liability. The costs, fees and expenses of the adjudication which are to be the Buyers liability are to be established in respect of the Supplier's cost by submission from the Supplier in the adjudication on an indemnity basis.
- Subject to clause 13 (b) any dispute or difference between the parties of any kind whatsoever arising out of or in connection with this Contract, whether before, during or after the completion or abandonment of the Works or after the termination of the Supplier's employment, shall be referred to arbitration in accordance with the Arbitration Act 1996.
- None of these Conditions shall be deemed to reduce the Buyers rights under appropriate legislation.