

Our Terms and Conditions of Purchase (Ceetak Ltd)

1. DEFINITIONS AND EXPLANATION

1.1. In these Conditions:

'Buyer' means Ceetak Limited (whose registered office is at Fraser Road Priory Business Park Bedford MK44 3WH)

'Contract' means the contract for the sale and purchase of the Goods and/or the supply of the Services;

'Deliverables' means all documents, products and materials developed by the Seller or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);

'Delivery Address' means the address stated on the Purchase Order;

'Goods' means the goods (including any instalment of the goods or any part of them) described in the Purchase Order;

'Purchase Order' means the Buyer's purchase order to which these Conditions are annexed;

'Price' means the price of the Goods and/or the charge for the Services;

'Seller' means the person so described in the Purchase Order;

'Services' means the services (if any) described in the Purchase Order;

'Specification' includes any plans, drawings, data or other information relating to the Goods or Services;

'Writing' includes facsimile, e-mail and electronic transmission and comparable means of communication.

1.2. Any reference in these Conditions to any provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

1.3. The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. BASIS OF THE PURCHASE

2.1. The Purchase Order constitutes an offer by the Buyer to purchase the Goods and/or acquire the Services subject to these Conditions.

2.2. These Conditions constitute the entire agreement and understanding of the Buyer and the Seller and shall apply to the Contract to the exclusion of any other terms and conditions on which any quotation has been given to the Buyer or subject to which the Purchase Order is accepted or purported to be accepted by the Seller.

2.3. In the event of any inconsistency between the terms and conditions of the Purchase Order and these Conditions, the terms and conditions of these Conditions shall prevail.

2.4. The Purchase Order will lapse unless unconditionally accepted by the Seller in Writing within 14 days of its date.

2.5. These Conditions apply to all of the Buyer's purchases of Goods and Services from the Seller and no variation to the Purchase Order or to these Conditions shall be binding unless agreed in Writing by an authorised representative of the Buyer and the Seller.

3. SPECIFICATIONS

3.1. The quantity, quality and description of the Goods and the Services shall, save as provided in these Conditions, be as specified in the Purchase Order and/or in any applicable Specification supplied by the Buyer to the Seller or agreed in Writing between the Buyer and the Seller.

3.2. Any Specification supplied by the Buyer to the Seller, or specifically produced by the Seller for the Buyer, in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the Specification, shall be the exclusive property of the Buyer. The Seller shall not disclose to any third party or use any such Specification except to the extent that it is or becomes public knowledge through no fault of the Seller, or as required for the purpose of the Contract.

3.3. The Buyer's rights under these Conditions are in addition to the statutory conditions implied in favour of the Buyer by the Sale of Goods Act 1979.

3.4. The Seller shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods and the performance of the Services.

3.5. The Seller shall allow any request by the Buyer or a representative of the Buyer's customer or any regulatory authority that governs the Buyer, on giving reasonable notice, to inspect and test the Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to despatch, and the Seller shall provide the Buyer with all facilities reasonably required for such inspection and testing, including access to its premises as is reasonably required and on reasonable notice for the satisfaction and benefit of the Buyer, its customers and any regulatory authority under this clause 3.5.

3.6. If as a result of inspection or testing the Buyer is not satisfied that the Goods will comply in all respects with the Contract, and the Buyer so informs the Seller within 7 days of inspection or testing, the Seller shall take such steps as are necessary to ensure compliance and in addition the Buyer shall have the further right to require and witness further testing and inspection.

3.7. Notwithstanding any such inspection or testing, the Seller shall remain fully responsible for the Goods and any such inspection or testing shall not diminish or otherwise affect the Seller's obligations or the Buyer's rights and remedies under the Contract and these Conditions.

3.8. The Goods shall be marked in accordance with the Buyer's instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course of business.

4. PRICE OF THE GOODS & SERVICES

4.1. The Price of the Goods and the Services shall be stated in the Purchase Order and shall be the full and exclusive remuneration of the Seller in respect of the delivery of the Goods and the performance of the Services and, unless otherwise so stated, shall be:

4.1.1. exclusive of any applicable value added tax (which shall be payable by the Buyer subject to receipt of a VAT invoice); and

4.1.2. inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address and any duties imposed, or levies other than Value Added Tax.

4.2. No increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer in Writing.

4.3. The Buyer shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Seller.

5. TERMS OF PAYMENT

5.1. The Seller shall be entitled to invoice the Buyer on or at any time after delivery of the Goods or performance of the Services, as the case may be, and each invoice shall quote the number of the Purchase Order.

5.2. Unless otherwise stated in the Purchase Order, the Buyer shall pay the Price of the Goods and the Services within 60 days after the end of the month of receipt by the Buyer of a proper invoice or, if later, after acceptance of the Goods or Services in question by the Buyer, but time for payment shall not be of the essence of the Contract.

5.3. The Buyer shall be entitled to set off against the Price any sums owed to the Buyer by the Seller.

5.4. The provisions of the Late Payment of Commercial Debts (Interest) Act 1998 shall not apply to these Conditions.

6. DELIVERY

6.1. The Goods shall be delivered to, and the Services shall be performed at, the Delivery Address on the date or within the period stated on the Purchase Order, in either case during the Buyer's usual business hours.

6.2. Where the date of delivery of the Goods or of performance of the Services is to be specified after the placing of the Purchase Order, the Seller shall give the Buyer reasonable notice of the specified date.

6.3. The time of delivery of the Goods and of performance of the Services is of the essence of the Contract.

6.4. A packing note quoting the number of the Purchase Order must accompany each delivery or consignment of the Goods and must be displayed prominently. Delivery of the Goods shall be completed on the completion of unloading and inspection of the Goods at the Delivery Address.

6.5. If the Goods are to be delivered, or the Services are to be performed, by instalments, the Contract will be treated as a single contract and not severable.

6.6. Nevertheless, failure by the Seller to deliver any one instalment of Goods or perform any one part of the Services shall entitle the Buyer at its option to treat the whole Contract as repudiated.

6.7. The Buyer shall be entitled to reject any Goods delivered which are not in accordance with the Contract or these Conditions, and shall not be deemed to have accepted any Goods until the Buyer has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.

6.8. The Seller shall supply the Buyer with any instructions or other information required in good time to enable the Buyer to accept delivery of the Goods and performance of the Services.

6.9. The Buyer shall not be obliged to return to the Seller any packaging or packing materials for the Goods, whether or not any Goods are accepted by the Buyer.

6.10. If Goods are delivered to the Buyer which are in excess of the quantities ordered pursuant to the Purchase Order, the Buyer shall not be bound to pay for the excess Goods and any excess Goods shall remain at the Seller's risk and shall be returnable to the Seller at the Seller's own expense.

6.11. If the Goods are not delivered or the Services are not performed on the due date then, without prejudice to any other remedy, the Buyer shall be entitled to deduct from the Price or (if the Buyer has paid the Price) to claim from the Seller by way of liquidated damage for delay 1% per cent of the Price for every week's delay, up to a maximum of 5% per cent.

7. RISK & PROPERTY

7.1. Subject to inspection pursuant to Clause 6.7 above, risk of damage to or loss of the Goods shall pass to the Buyer upon completion of delivery to the Buyer in accordance with the Contract.

7.2. It shall pass to the Buyer once payment has been made and the Goods have been appropriated to the Contract.

8. WARRANTIES & LIABILITY

8.1. The Seller warrants to the Buyer that the Goods:

8.1.1. will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Seller or made known to the Seller in Writing at the time the Purchase Order is placed and, in this respect, the Buyer relies on the Seller's skill and judgment;

8.1.2. will be free from defects in design, material and workmanship and will remain so for the earlier of 18 months from delivery to to the Buyer or 12 months from delivery by the Buyer to its customer;

8.1.3. will correspond with their description and any relevant Specification or sample; and

8.1.4. will comply with all statutory requirements and regulations relating to the manufacture, labelling, packaging, storage, handling, sale and delivery of the Goods.

8.2. The Seller warrants to the Buyer that, in providing the Services, the Seller shall:

8.2.1. co-operate with the Buyer in all matters relating to the Services, and comply with all instructions of the Buyer;

8.2.2. perform the Services with the best care, skill and diligence in accordance with best practice in the Seller's industry, profession or trade;

8.2.3. use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Seller's obligations are fulfilled in accordance with the Contract;

8.2.4. ensure that the Services will conform with all descriptions and specifications set out in the Specification;

8.2.5. provide all equipment, tools and vehicles and such other items as are required to provide the Services;

8.2.6. obtain and at all times maintain all licences and consents which may be required for the provision of the Services;

8.2.7. comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply from time to time to the provision of the Services;

8.2.8. observe all health and safety rules and regulations and any other security requirements that apply at any of the Buyer's premises; and

8.2.9. not do or omit to do anything which may cause the Buyer to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Seller acknowledges that the Buyer may rely on or act on the Services.

8.2.10. grant to the Buyer (or shall procure the direct grant to the Buyer) a fully paid-up, worldwide, non-exclusive, royalty-free licence to copy and use the Deliverables for the purposes of receiving and using the Services and the Deliverables.

8.3. Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract, then the Buyer shall be entitled:

8.3.1. to require the Seller to repair the Goods or to supply replacement Goods or Services in accordance with the Contract within 7 days;

8.3.2. at the Buyer's sole option, and whether or not the Buyer has previously required the Seller to repair the Goods or to supply any replacement Goods or Services, to treat the Contract as discharged by the Seller's breach and require the repayment of any part of the Price which has been paid;

8.3.4. to recover from the Seller any expenditure reasonably incurred by the Buyer in obtaining substitute Goods or Services;

8.3.5. to require a refund from the Seller of sums paid in advance for Goods or Services that the Seller has not provided; and

8.3.6. to claim damages for any additional costs, loss or expenses incurred by the Buyer which are in any way attributable to the Seller's failure to meet such dates.

8.4. The Seller shall indemnify the Buyer in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with:

8.4.1. breach of any warranty given by the Seller in relation to the Goods or the Services;

8.4.2. any claim that the Goods infringe, or their importation, use or resale, infringes the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any Specification supplied by the Buyer;

8.4.3. any liability under the Consumer Protection Act 1987 in respect of the Goods;

8.4.4. any defective workmanship, quality or materials in respect of the Goods;

8.4.5. any act or omission of the Seller or its employees, agents or sub-contractors in supplying, delivering and installing the Goods;

8.4.6. any claim made against the Buyer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods as delivered or the Deliverables;

8.4.7. any act or omission of any of the Seller's personnel in connection with the performance of the Services, and

for the avoidance of doubt, this Clause 8.4 shall survive termination of the Contract.

8.5. Neither the Seller nor the Buyer shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure is beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control:

- 8.5.1. act of God, explosion, flood, tempest, fire or accident;
 - 8.5.2. war or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - 8.5.3. acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - 8.5.4. import or export regulations or embargoes;
 - 8.5.5. strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of either the Seller or the Buyer or of a third party);
 - 8.5.6. difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - 8.5.7. power failure or breakdown in machinery; and
 - 8.5.8. accident to or sickness of agents or employees.
- 8.6. In the event of either party being so prevented from carrying out its obligations under this Contract as a result of any of the causes listed at Clause 8.5 above, the party concerned shall give notice of suspension as soon as reasonably possible to the other party stating the date and the extent of the suspension and its cause and failure to give such notice shall forfeit the rights of that party to claim suspension. Any party whose obligations have been suspended shall resume the performance of those obligations as soon as reasonably possible after the removal of the cause and shall so notify the other party. In the event that the cause continues for more than one month either party may terminate this Contract by giving the other party 30 days' written notice.
- 8.7. These Conditions shall extend to any substituted Goods or any substituted or remedial Services provided by the Seller.

9. INSURANCE

During the term of the Contract, the Seller shall maintain in force, with a reputable insurance company, professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on the Buyer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

10. TERMINATION

- 10.1. The Buyer shall be entitled to cancel the Purchase Order in respect of all or part only of the Goods and/or the Services by giving notice to the Seller at any time prior to delivery or performance, in which event the Buyer's sole liability shall be to pay to the Seller the Price for the Goods or Services in respect of which the Buyer has exercised its right of cancellation, less the Seller's net saving of cost arising from cancellation.
- 10.2. The Buyer shall be entitled to terminate the Contract without liability to the Seller by giving notice to the Seller at any time if:
- 10.2.1. the Seller commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) the Seller fails to remedy that breach within a period of 14 days after being notified to do so;
 - 10.2.2. the Seller takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or an encumbrancer taking possession of the same, or (in the case of an individual) becomes bankrupt;
 - 10.2.3. the Seller suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
 - 10.2.4. the Buyer reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly.
- 10.3. Termination of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 10.4. On termination of the Contract for any reason, the Seller shall immediately deliver up to the Buyer all Deliverables, whether or not then complete.

11. GENERAL

- 11.1. Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. A notice is deemed to have been served as follows:
- 11.1.1. if personally delivered or by fax or e-mail at the time of delivery;
 - 11.1.2. if posted, at the expiration of 48 hours (or in the case of airmail, 7 days) after the envelope containing it is posted.
- 11.2. A waiver of any right or remedy under these Conditions or the Contract or by law is only effective if given in writing and no failure or delay by either party in exercising any of its rights under these Conditions or the Contract shall be deemed to be a waiver of that right (except where expressly stated to the contrary in these Conditions).

No waiver by either party of any breach of these Conditions by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

11.3. 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.

11.4. Any party who receives faulty goods which are supplied by the Buyer and where the Buyer originally obtained those goods from the Seller that party may enforce the terms of Clause 8 of these Conditions and the provisions of the Contracts (Rights of Third Parties) Act 1999 against the Seller.

11.5. Except as provided in 11.4, a person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This shall not affect any right or remedy of a third party that exists or is available apart from under that Act.

11.6. Each party undertakes that it shall not, at any time during the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except:

11.6.1. to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause 11.6.1; and

11.6.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.7. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

11.8. These Conditions and all contracts for the purchase of Goods and/or Services shall be governed by the laws of England, and the Seller agrees to submit to the exclusive jurisdiction of the English courts.

11.9. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Buyer and the Seller or their authorised representatives.

11.10. These Conditions, and the documents referred to within, constitute the entire agreement and understanding of the parties and supersede any previous agreement between the parties relating to the subject matter of the Contract. Each of the parties acknowledges and agrees that in entering into the Contract, and the documents referred to within, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this agreement or not) other than as expressly set out in the Contract. The only remedy available to it for breach of any warranty shall be for breach of contract under the terms of the Contract and these Conditions. Nothing in this sub-clause shall, however, operate to limit or exclude any liability for fraud.

11.11. The Purchase Order is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to, or declare a trust in favour of any other person any of its rights or sub-contract any of its obligations under the Contract. The Buyer may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

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