

STANDARD TRADING TERMS & CONDITIONS

1. Definitions:-

- 1.1 **'CoDEStorm'** means **CoDEStorm Plc**, or any subsidiary, employee or contractor thereof.
- 'Buyer'** means any person, firm or company who accepts a quotation from CoDEStorm for the sale of the Goods or whose order for the Goods is accepted by CoDEStorm.
- 'Goods'** means the article, matter or things or any of them described in the Order which CoDEStorm is to supply under the Contract and the term shall be construed where the context so admits as including materials, products, services and/or work.
- 'Order'** means the order placed by the Buyer (whether on the Buyer's own order form or otherwise) for the supply of Goods.
- 'Conditions'** means these Standard Trading Terms & Conditions.
- 'Contract'** means the Contract for the purchase and sale of Goods and/or services.
- 1.2 Any reference in these conditions to any provisions of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.3 Any references to the masculine gender shall be deemed to include a reference to the feminine and neuters where the context so admits.
- 1.4 The headings to these Conditions shall not affect the meaning or interpretation of this agreement.
- 1.5 These Terms and Conditions may change at any time with no warning or notification being made of said change(s).

2. Contract

- 2.1 These Conditions, Buyer's Order and CoDEStorm's acceptance thereof shall form the entire Contract between CoDEStorm and the Buyer in respect of the Goods. No terms set forth in the Order which conflict with these Conditions (other than as are reproduced from CoDEStorm's quotation) shall be of any effect and shall form no part of the Contract unless expressly acknowledged in by CoDEStorm (in which case such acceptance shall prevail) or where a separate Contract between the parties has been agreed and signed by both parties.
- 2.2 For the avoidance of doubt, any quotation provided by CoDEStorm is for information purposes only and shall not constitute a binding offer by CoDEStorm. The Buyer's Order whether verbal or written shall constitute an offer to purchase the Goods in accordance with the quotation and shall be binding once accepted by CoDEStorm.
- 2.3 The Buyer shall be responsible to CoDEStorm for ensuring the accuracy of the terms of any Order submitted by the Buyer, and for giving CoDEStorm any necessary information relating to the Goods within sufficient time to enable CoDEStorm to perform the Contract in accordance with its terms.
- 2.4 No Order which has been accepted by CoDEStorm may be cancelled by the Buyer except with the agreement in writing of CoDEStorm and on terms that the Buyer shall indemnify CoDEStorm in full against all loss (including loss of profit), costs, damages, charges and expenses incurred by CoDEStorm as a result of such cancellation.

3. Price and Price Variation

- 3.1 Subject to clauses 3.2 and 4, the price of the Goods shall be as set forth in CoDEStorm's quotation. If the Buyer does not issue an Order against a quotation within thirty (30) days of receiving the Order, the quotation will lapse. If the Buyer wishes to place an Order after such period, they must obtain a new quotation from CoDEStorm.
- 3.2 CoDEStorm reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to CoDEStorm which is due to any factor beyond the control of CoDEStorm (such as, and without limitation to, any alteration of duties, significant increases in the cost of labour, materials or other costs of production) and any changes in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give CoDEStorm adequate information or instructions.
- 3.3 The price is exclusive of any applicable Value Added Tax, which the Buyer shall be additionally liable to pay to CoDEStorm.

4. Design, Setting and Other Preliminary Work

- 4.1 All preliminary and additional work carried out at the Buyer's request whether of a design, setting or experimental nature or otherwise and whether or not the same was the subject of a quotation will be charged at the rate specified by CoDEStorm from time to time.
- 4.2 Designs submitted by CoDEStorm remain the property and copyright of CoDEStorm unless otherwise agreed in writing.
- 4.3 Proofs or artwork may be submitted for the Buyer's approval and CoDEStorm shall incur no liability for any errors not corrected by the Buyer in proofs so submitted. All the Buyer's alterations and additional proofs necessitated thereby shall incur an additional charge. When style type or layout is left to CoDEStorm's judgement, changes thereto made by the Buyer shall incur an additional charge. A charge may also be made to cover any additional work involved where copy supplied by the Buyer is not clear or legible.

5. Standing Materials

- 5.1 Metal plates, film and other materials owned by CoDEStorm and used by it in the production of plates, film setting, negatives, positives and the like remain CoDEStorm's exclusive property unless otherwise agreed in writing. Such items when supplied by the Buyer shall remain the Buyer's property.
- 5.2 Metal plates, film and other materials owned by CoDEStorm will be destroyed immediately after use unless otherwise agreed in writing. In the latter event the cost of storage may be charged in accordance with clause 8.3.
- 5.3 Metal plates, Film and other like materials owned by the Buyer will be returned to the Buyer immediately after use unless otherwise agreed in writing. In the latter event the cost of storage may be charged in accordance with clause 8.3.

6. Buyer's Specifications

- 6.1 The Buyer shall be responsible for ensuring that any artwork, sketches, specifications, descriptions or information or other instructions supplied by the Buyer or by any agent or representative of the Buyer in connection with the manufacture or sale of any Goods ("Specifications") are accurate, unambiguous and clearly legible and meet the Buyer's requirements. The Buyer shall indemnify and hold CoDEStorm harmless in respect of any liability, loss, injury, damage, demand, cost, charge or expense which may be incurred or sustained by CoDEStorm by reason of or arising directly or indirectly from any claim in respect of any inaccuracy, ambiguity or illegibility in respect of any such Specifications or otherwise in relation thereto.
- 6.2 CoDEStorm may reject any paper, copy, film, plates or other materials supplied or specified by the Buyer which appears to CoDEStorm to be unsuitable but CoDEStorm shall be under no liability to check the quality or suitability of the same. Additional costs incurred if materials are found to be unsuitable during production may be charged by CoDEStorm.
- 6.3 Where materials are to be supplied or specified, CoDEStorm will take every care to secure the best results, but responsibility will not be accepted for imperfect work caused by defects, shortfall in compliance with specified requirements or unsuitability of materials so supplied or specified.
- 6.4 Quantities of materials supplied by the Buyer shall be adequate to cover normal spoilage. CoDEStorm will endeavour to use their own materials to complete a project where insufficient stock has been supplied by the Buyer and a charge will be payable by the Buyer in respect of these materials.
- 6.5 Whilst every endeavour will be made to supply material in accordance with the quality of samples submitted or quoted for, this cannot be guaranteed.
- 6.6 All surplus materials following completion of the project will be returned to the Buyer by CoDEStorm at the Buyer's expense and charged accordingly unless otherwise agreed in writing.

7. CoDEStorm's Illustrations

- 7.1 Any samples, illustrations or descriptive material made available by CoDEStorm including artwork, and specifications or weight capacity or dimensions ("Illustrations") shall not form part of the contract but shall be treated as approximate only unless specifically stated otherwise. All documents containing such Illustrations (as well as copyright therein) shall remain the exclusive property of CoDEStorm and must not be copied or loaned or transferred.

8. Risk and Storage

- 8.1 The Buyer's property and all property supplied to CoDEStorm by or on behalf of the Buyer shall while it is in the possession of CoDEStorm or in transit to or from the Buyer be deemed to be at the Buyer's risk and it is the responsibility of the Buyer to insure such property. For the avoidance of doubt, CoDEStorm shall have no liability whatsoever for the loss of any such property whether the same is caused by CoDEStorm's negligence or otherwise.
- 8.2 The Buyer warrants that it has in place a policy of insurance adequate to cover the loss of its property and that it has obtained from the insurer a waiver of the insurer's subrogation rights against CoDEStorm. Notwithstanding the foregoing, the Buyer shall indemnify and hold harmless CoDEStorm against any and all claims made by the insurer or any third party in respect of the loss of any such property.
- 8.3 Where CoDEStorm agrees to store any items for longer than is provided for herein or where the Buyer fails to collect the Goods in accordance with clause 9.3, CoDEStorm shall be entitled to make a reasonable storage charge therefore but without prejudice to risk remaining with the Buyer.

9. Delivery

- 9.1 The Goods shall be made available to the Buyer by CoDEStorm notifying the Buyer that the Goods are ready for collection at CoDEStorm's premises, properly packed and secured in such a manner as to reach their destination in good condition under normal conditions of transport. Notwithstanding the foregoing, CoDEStorm may agree to arrange carriage of the Goods to the place or places and in the manner specified by the Buyer in the Order and should CoDEStorm do so it shall act as the Buyer's agent and at the Buyer's risk and additional cost, unless otherwise specified in the quotation and/or agreed in writing.
- 9.2 Title (and therefore, in accordance with clause 8.1, risk) in the Goods shall pass to the Buyer on delivery but without prejudice to any right of rejection which may accrue to the Buyer under these Conditions.
- 9.3 Should the Buyer not collect the Goods from CoDEStorm's premises or arrange carriage therefrom (through CoDEStorm or a third party) for a period of more than seven (7) days after being notified that the Goods are ready for collection, CoDEStorm shall be entitled to issue an invoice for any materials specially ordered and to make a storage charge in accordance with clause 8.3.

10. Payment

- 10.1 Unless otherwise agreed in writing, CoDEStorm shall be entitled to invoice the Buyer for the price of the Goods on or at any time after the Goods are delivered or are made ready for collection or the project is completed.
- 10.2 Unless otherwise agreed in writing, the Buyer shall pay the price of all Goods within thirty (30) days of the date of CoDEStorm's invoice. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 10.3 Any query or dispute of any invoice must be made prior to the due date of the invoice else full payment will be deemed to be applicable and due on said due date.
- 10.4 Notwithstanding clause 10.2, carriage and despatch costs (including, without limitation, postage), if applicable, and List Supply, invoices are payable immediately on invoice and must be settled prior to commencement of the project, collection of Goods, or forward carriage as the case may be.
- 10.5 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to CoDEStorm, CoDEStorm shall be entitled to:-
 - 10.5.1 cancel the Contract or suspend any further deliveries to the Buyer or recall any Goods in carriage to the Buyer;
 - 10.5.2 hold such of the Buyer's Goods or the Buyer's third party goods (where the Buyer acts as a broker or supplies goods on behalf of a third party client) supplied to CoDEStorm by the Buyer (or the goods supplied under any other contract between the Buyer and CoDEStorm) as are in CoDEStorm's custody or control and in addition make a storage charge for such Goods at CoDEStorm's standard rate for storage until all unpaid invoices under the Contract (or any other contract between the Buyer and CoDEStorm) are paid in full;
 - 10.5.3 sell such Goods and apply the proceeds of sale towards such unpaid debts;

- 10.5.4 use any money provided by the Buyer under any contract between the Buyer and CoDEStorm to discharge the unpaid invoice without any liability under such other contract (and to the extent that CoDEStorm does so the Buyer shall be deemed not to have provided such sum under such other contract) PROVIDED ALWAYS that if the sum so off-set is not adequate to discharge the unpaid invoice the Buyer shall not thereby be relieved of its obligation to make up the shortfall; and
- 10.5.5 charge the Buyer interest from time to time (both before and after any judgement) on the amount unpaid at the rate of four (4) per cent per annum above Bank of Scotland base rate, until payment is made in full (a part month being treated as a full month for the purpose of calculating interest), in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

11. Confidentiality and Data Protection

- 11.1. The Buyer shall not disclose to a third party without the written agreement of CoDEStorm any information with regard to CoDEStorm's operation, systems, procedures, pricing and products and agrees to keep such information confidential.
- 11.2 Without prejudice to the generality of clause 11.1, the Buyer agrees not to make any commercial use of or otherwise exploit (whether or not for its own benefit) CoDEStorm Confidential Information.
- 11.3 These confidentiality provisions shall remain in full force and effect both during and after the undertaking by CoDEStorm of any supply of Goods to or on behalf of the Buyer.
- 11.4 By placing an order with CoDEStorm, the Buyer agrees to data relating to the transaction being retained and processed by CoDEStorm in accordance with the Data Protection Act 1998 or any statutory modification thereof. The data so retained will be used by CoDEStorm for the purpose of accounting and marketing and will not be disclosed to any third party without the previous consent in writing of the Buyer.
- 11.5 CoDEStorm subscribes to the data protection principles as laid down by the Information Commissioner and all data is held securely. CoDEStorm is registered to hold such information as specified by the conditions imposed in the Data Protection Act 1998 or any statutory modification thereof under List Warranty Registration Number Z8013898.
- 11.6 The Buyer must ensure that all Data supplied by the Buyer to CoDEStorm can be lawfully processed in the manner anticipated and requested by the Buyer. CoDEStorm accepts no responsibility or liability for data supplied by the Buyer or used on the Buyers behalf which has not been lawfully collected or instructed for use in the accepted manner which conforms to the regulations of the Data Protection Act as per clause 11.3.
- 11.7 CoDEStorm will make every endeavour to ensure that all necessary technical and organisational measures are in place to prevent unauthorised or unlawful processing or accidental loss, damage or destruction of Personal Data, and will take all reasonable steps to ensure the reliability of its staff who will have access to such Personal Data. CoDEStorm accepts no liability for any issues arising out of the use of the data howsoever caused.

12 Warranty

- 12.1 Subject to clause 12.2, CoDEStorm warrants that the Goods shall conform as to quantity, quality and description with the particulars stated in the Order. The foregoing is the sole warranty given by CoDEStorm in respect of the goods and all other warranties or conditions express or implied statutory or otherwise (including and without limitation as to the quality or fitness of the goods for any particular purpose) are hereby expressly excluded to the maximum extent permitted by law.
- 12.2 CoDEStorm gives no warranty at all on Goods supplied but not manufactured by CoDEStorm save that, so far as possible, CoDEStorm will pass on to the Buyer the benefit of any warranty on such Goods provided to CoDEStorm by the manufacturer of the Goods.
- 12.3 CoDEStorm shall have no liability under the warranty in clause 12.1 if the total price of the Goods has not been paid by the due date or at the date when the Buyer claims that there has been a breach of such warranty or otherwise in respect to any defect arising from fair wear and tear, wilful damage, abnormal use or alteration of the Goods without CoDEStorm's approval.

13 Limitation on Liability

- 13.1 Any delays or consequential issues caused by the late supply of any reports, data, scripts, documents, materials or samples of any kind by the Buyer will be the sole responsibility of the Buyer.
- 13.2 CoDEStorm's sole liability under the Contract and the Buyer's sole remedy is for CoDEStorm to replace the Goods in question PROVIDED ALWAYS that CoDEStorm's total liability in relation to defective Goods shall be limited to the invoice value of the Goods replaced .
- 13.3 In respect to Goods supplied but not manufactured by CoDEStorm, CoDEStorm shall not be liable for any failure of the manufacturer of such Goods to allow the benefit of its warranty thereon to be passed onto the Buyer or in so allowing for any failure to honour such warranty.
- 13.4 Under no circumstances will CoDEStorm be liable for any consequential or indirect damages or loss suffered by the Buyer, including, without limitation, loss of profits and loss of opportunity, whether such damages or loss arise from breach of a duty in contract or in tort (including, without limitation, negligence) or in any other way.

14. Insolvency of Buyer.

- 14.1 In any case where:
- 14.1.1 the Buyer makes any voluntary agreement with its creditors or becomes subject to an administration order or (being an individual or Firm) becomes bankrupt or (being a Company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or
- 14.1.2 an encumbrancer takes possession of, or a receiver or an administrative receiver is appointed over, any of the property or assets of the Buyer; or
- 14.1.3 the Buyer ceases, or threatens to cease to carry on business: or
- 14.1.4 CoDEStorm reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly

then without prejudice to any other right or remedy available to CoDEStorm, CoDEStorm shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for, or monies are outstanding, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

15 Codes of Practice, Copyrights, Patents and Intellectual Property Indemnity

- 15.1 CoDEStorm shall ensure, so far as is practicable, that no material or services produced or offered by CoDEStorm offends or breaches the regulations codes or standards from time to time set or imposed by relevant regulatory bodies including (but without limitation) the British Code of Advertising Practice, the British Code of Sales Promotion Practice and the Code of the Independent Committee for the Supervision of Standards of Telephone Information Service. CoDEStorm reserves the right to take such steps as may be necessary to ensure compliance with such codes including without limitation cancellation of any Contract without any liability for CoDEStorm.
- 15.2 Without prejudice to the generality of the foregoing, CoDEStorm shall not be required to print any matter which in its reasonable opinion is or may be of an illegal or libellous nature or an infringement of the proprietary or other rights of any third party and which would otherwise involve any criminal or tortious liability of any kind.
- 15.3 The Buyer shall keep CoDEStorm fully and effectively indemnified against all costs, expenses, damages and losses incurred in respect of any third party claims or proceedings whatsoever brought in respect of the Goods sold and this includes, but is not limited to, any claim or proceedings relating to libel, the infringement of any patent, copyright, design right, trademark, registered design, trade name or any other intellectual, proprietary, personal or industrial property rights of third parties. The indemnity shall extend to any amounts paid in settlement of any claim.
- 15.4 Where any designs or specifications have been supplied by the customer for manufacture of goods by CoDEStorm the Buyer warrants that the use of such designs or specifications for the manufacture, processing assembly or supply of the Goods shall not infringe the rights of any third party and the Buyer shall indemnify CoDEStorm against all costs claims and demands of whatsoever nature arising out of the use of such designs or specifications.
- 15.5 Goods referred to in any CoDEStorm publication, correspondence or invoice may be subject to a patent, trade mark, registered design, copyright, topography right or other right of a third party. CoDEStorm owns full copyright in respect of any publication whether published in paper or electronic form. The reproduction, storage, or transmission in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, in part or whole, is prohibited without the prior consent of CoDEStorm.
- 15.6 Whilst every endeavour is made to ensure accuracy, all prices, specifications, illustrations, advertising material or other details published, broadcast or in any other way communicated to the Buyer by CoDEStorm or any third party, are intended merely to present general information of the Goods. CoDEStorm therefore reserves the right to amend or update any such information without prior notice to the Buyer.
- 15.7 Notwithstanding any other condition of sale, title and ownership of all intellectual property rights in any software programme written or produced by CoDEStorm is retained by CoDEStorm and will not pass to the Buyer. Such software programmes may only be used by the Buyer and revocable non-exclusive license is hereby granted for the sole use of the Buyer. Any software must not be copied or altered or otherwise modified in any way unless the Buyer is given express permission by CoDEStorm in writing.

16 Indemnity

- 16.1 The Buyer agrees to indemnify CoDEStorm against all claims, demands or proceedings in respect of all injuries to personnel or loss and damage to property howsoever caused, either within an area under CoDEStorm's control or acting upon information or using materials supplied by either the Buyer or CoDEStorm or any person acting on behalf of CoDEStorm.

17. Termination of Contract

- 17.1 Termination of the Contract for whatever reason shall not affect the rights or remedies of either party in respect to any antecedent breach or in respect to any sum of money owing by one party to the other.
- 17.2 Either CoDEStorm or the Buyer may at any time give not less than one calendar month's notice in writing to the other of its intention to terminate the Contract and notwithstanding that CoDEStorm may have released the Goods before the expiry of such notice, all charges shall be payable to the date when the notice would have expired and payment of all outstanding monies due to CoDEStorm by the Buyer must be paid prior to the Contract termination date. No stock will be released by CoDEStorm until full payment has been received.

18. Force Majeure

- 18.1 CoDEStorm shall be under no liability to the Buyer for any loss or damage which may be suffered by the Buyer as a result directly or indirectly of the supply of Goods by CoDEStorm being prevented, hindered, delayed or rendered uneconomic by reason of circumstances or events beyond CoDEStorm's reasonable control including but not limited to an Act of God, legislation, war, riot, civil disobedience, strike, lock-out, trade dispute or labour disturbance, accident, breakdown of plant or machinery, fire, flood, storm, difficulty or increased expense in obtaining materials or transport or other circumstances affecting the supply of the Goods or of the materials required for the Contract from CoDEStorm's normal source of supply. Should such circumstances continue for longer than thirty days, the Buyer may by written notice to CoDEStorm elect to terminate the Contract but shall otherwise accept delivery of the Goods when the same are available.

19 Disputes

- 19.1 If there is any dispute regarding the subject matter of the Contract the parties shall use their best endeavours to resolve such dispute as soon as possible. If the dispute cannot be resolved within ten (10) Business Days a notice of dispute may be served by either party on the other setting out the basis of the dispute and the dispute shall be referred to the Managing Director of CoDEStorm and the Deputy Chief Executive or such other person as the Buyer may nominate in writing to CoDEStorm from time to time who shall attempt to resolve such dispute. Should the parties fail to resolve the dispute arbitration will be sought in the form of an independent person agreed by both parties.

20. Notices

- 20.1 Any notice given under this Contract shall be deemed to have been duly given if sent by prepaid, first-class post to the party concerned at its last known address. Notices sent by first-class post shall be deemed to have been served 48 hours after the same have been posted.

21 Severability of Provisions

- 21.1 If any provision of the terms & conditions herein stated or any document referred to in it is held to be illegal, invalid or unenforceable in whole or in part in any relevant jurisdiction the terms shall, as to such jurisdiction, continue to be valid as to the other provisions and the remainder of the affected provision and the legality, validity and enforceability of such provision in any other jurisdiction shall be unaffected.

22. Waiver

- 22.1 No waiver or forbearance by CoDEStorm (whether expressed or implied) in enforcing any of its rights shall prejudice its right to do so in the future.

23. Law

- 23.1 These Conditions and the Contract shall be governed and construed in accordance with the laws of England.