



## terms & conditions

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### Terms and Conditions of Supply - With effect from 1st January 2008

#### 1. Definitions

In these conditions:

The "Supplier" means En-scan

The "Buyer" means the person, firm or company purchasing goods or services from the Supplier;

The "Goods" means the goods supplied by the Supplier

The "Services" means the services performed by the Supplier

#### 2. Basis of Sale

2.1 These conditions shall apply to all contracts for the sale or supply of goods and for services by the Supplier to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order confirmation of order or similar document.

2.2 All orders for goods and/or services shall be deemed to be an offer by the Buyer to purchase goods and/or services pursuant to these conditions.

2.3 Acceptance of delivery of the goods or supply of the services shall be deemed conclusive evidence of the Buyer's acceptance of these conditions.

2.4 Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Supplier

#### 3. Price

3.1 All prices are quoted exclusive of VAT and this will be charged at the appropriate rate at the date of invoice.

3.2 All quotations are based on the work being done during normal working hours and if done outside those hours at the Buyer's request, an additional charge may be made.

#### 4. Payment

4.1 Payment is to be made within the period printed on the Quotation or Estimate under Terms para. 1 or as indicated in a formal Proposal. In any event, the payment period will not extend beyond thirty days from date of invoice.

4.2 In the case of overdue payment, the Supplier may charge interest to the Buyer on the amount overdue calculated on a daily basis at the rate of 2% per month without prejudice to any other rights of the Supplier.

4.3 Payment on or before the due date is of the essence of the contract and is a condition precedent for the performance of any further services by the Supplier to the Buyer.

4.4 The Supplier reserves the right to issue invoices on a weekly basis for payment of work done to date if at any time a project becomes delayed through no fault of the Supplier.

4.5 On suspension or early termination of a project or other supply of services the Supplier shall be entitled to, and shall be paid, fees for all services provided to that time, and to expenses and disbursements reasonably incurred to that time.

4.6 Invoicing and part invoicing will be made on a monthly basis for the duration of the project.

#### 5. Retention of Title

5.1 Property in any Goods supplied by the Supplier shall not pass to the Buyer until the Buyer has paid to the Supplier all sums owed by the Buyer to the Supplier. The Goods shall be at the risk of the Buyer on delivery.

5.2 Until the goods are paid for, the Buyer will indemnify the Supplier against any loss or deterioration in the Goods while they remain the property of the Supplier and will keep the Goods properly insured for not less than their contract value.

5.3 Without prejudice to any other rights the Supplier may have, the Supplier may recover the Goods and the Buyer agrees that the Supplier, its agents or employees may enter on the Buyer's premises and remove the Goods at any time, if any of the events in Clause 12 occur and property in the Goods has not passed to the Buyer.

#### 6. Limitation of Liability

6.1 The Supplier shall not be liable for any indirect or consequential loss or damage of any kind including loss of profit.

6.2 The Supplier warrants that Goods will be free of material defect and that any Services shall be provided with reasonable skill and care. The Supplier's liability under this warranty shall be limited to repairing or replacing



defective Goods and/or making available free of charge the labour and materials to make good any failure to perform the Services with reasonable skill and care. The Supplier's liability is also conditional upon: -

- (a) written notice of the defect being given to the Supplier within 14 days after discovery of the same and in any event within three months after the date of delivery of the Goods or performance of the Services; and
- (b) the Goods supplied or any goods upon which the Services were performed being properly stored and not having been submitted to improper use or modification.

6.3 Where the Supplier agrees to provide electronic copies of documents/drawings it accepts no liability for the function or performance of such copies because of the difficulty in proving whether amendments to them were made with or without its authority.

6.4 The limitations on the Supplier's liability mentioned above and elsewhere in these terms and conditions shall be subject as provided in the Unfair Contract Terms Act 1977 and any amending legislation and in particular the Supplier does not exclude its liability for death or personal injury caused by its negligence or that of its servants, agents or sub contractors.

#### 7 Infringement of Third Party Intellectual Property Rights

To the best of the Supplier's knowledge and belief neither its Goods nor its Services will infringe the intellectual property rights of any third party. Subject thereto the Supplier gives no guarantee or warranty whatsoever as to non-infringement and it shall not be liable in the event that either Goods or Services do in fact infringe such third party rights.

#### 8 Buyer's Premises and Goods

Where the Supplier is to work at the Buyer's premises or on the Buyer's Goods, the Buyer shall ensure that they are at all times in a safe condition for such purposes.

#### 9 Cancellation of Orders

Orders may not be cancelled or suspended without the Supplier's written consent.

#### 10 Force Majeure

The Supplier shall bear no liability for loss, damage or delay howsoever arising caused in circumstances outside its control (of whatsoever kind) and in these circumstances may suspend or cancel the whole or part of any contract.

#### 11 Delivery

11.1 Any time or date specified by the Supplier is given in good faith as an estimate only and although the Supplier shall use its best endeavours to meet such time or date, the Supplier shall not be liable for any direct or indirect loss, damage or expense howsoever arising from any delay in performance.

11.2 Without prejudice to the generality of clause 11.1, the Supplier shall in no circumstances be liable for any loss incurred by the Buyer as a result of any failure to deliver, late delivery, or incorrect delivery to the Supplier by any of its third party suppliers.

11.3 The Supplier's sole obligation, unless otherwise agreed, shall be to provide the Buyer with one original manuscript copy of every drawing/document. Electronic copies will be charged extra at a reasonable price.

#### 12 Default

Without prejudice to any other rights it may have either party ("the terminating party") may by notice in writing to the other party ("the defaulting party") to terminate any contract forthwith if:

- (a) the defaulting party shall commit any breach of any of the terms of any contract with the terminating party provided that if the breach is remediable the terminating party has given to the defaulting party notice of such breach which has not been remedied within 30 days thereafter; or
- (b) if the defaulting party shall have any execution levied on its assets, call any meeting of or make any arrangement or composition with its creditors or have a receiver or administrator of all or any of its assets appointed or enter into liquidation or if it is insolvent, or if being an individual he is insolvent or has a receiving order made against him or is declared bankrupt.

#### 13 Assignment

Neither party shall assign or transfer any contract to which these Conditions apply nor the benefit thereof to any person whatsoever without the prior written agreement of the other party.



- 14 Proper Law of Contract  
The construction, validity and performance of any contract shall be governed in all respects by the Law of England and each party shall at all times provide the other party with an address in England or Wales where it will accept service of proceedings.
- 15 Notices  
Any notice required to be given under these Conditions may be sent by pre-paid first class post, telex or facsimile to the principal place of business or registered office of the party to whom the notice is being sent. If sent by post, it shall be deemed to have been served (until the contrary is proved) on the second working day after the day after posting.
- 16 Additional Costs  
The Buyer will indemnify the Supplier against all additional costs incurred by the Supplier as a result of the Buyer failing or delaying to give proper instructions or provide premises and/or goods or for any other reason attributable to the Buyer.
- 17 Intellectual Property Rights  
All copyright, design right, and the right to apply to register patents, registered designs, trade or service marks and all other intellectual property rights in any work generated by the Supplier in the course of performing services for the Buyer shall belong to the Supplier absolutely unless otherwise agreed in writing. In any event copyright in drawings and designs whether as paper copies or electronic files in any format shall not pass to the Buyer until paid for in full.
- 18 Indemnity  
The Buyer shall indemnify the Supplier against all loss and expense incurred by the Supplier in connection with any claim or infringement of any patent or copyright design trade or service mark or other intellectual property rights of any other person resulting from any goods or information provided by the Buyer to the Supplier.
- 19 The Supplier's Staff  
The Buyer shall not make any offer or inducement to any employee or sub-contractor of the Supplier at any time while such person is performing Services for the Buyer on behalf of the Supplier nor for a period of one year thereafter.
- 20 Confidentiality  
Each party agrees to keep confidential all information about the other party's business which that party discloses to it for the purposes of any contract between the Buyer and Supplier.
- 21 Waiver  
No waiver by either party of any breach of contract by the other party shall be considered as a waiver of any subsequent breach of the same or any other provisions of the contract.
- 22 Invalidity of Contractual Term  
If any provision of these Conditions is held by any Court or competent authority as invalid or unenforceable in whole or in part the validity of the remainder of these Conditions and of the remainder of the provisions in question shall not be affected thereby.

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## Terms and Conditions of Supply

**Signed on behalf of En-scan**

**Signed on behalf of the Buyer**

**Print name**

**Print name**

**Company**

**Date**

**Date**