

Terms And Conditions

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Please read the terms and conditions below. These terms shall be deemed accepted by our customers upon their placing of an order with us.

For the purposes of this document: – “the Seller” refers to Gary Aiken and staff, including trading as www.cd-duplication.ie

“the Goods” refers to the Goods indicated on the Seller’s order form or other goods that may be ordered from the Seller by whatever means.

“the Buyer” refers to the person indicated on the Seller’s order form ordering the Goods from the Seller.

“the Order” means the order placed by the Buyer for the supply of the Goods as set out on the Seller’s order form or otherwise.

“Specification” means the description (if any) of the Goods referred to in the Order.

“the Contract” means the Contract for the purchase and sale of the Goods in accordance with these terms and conditions. the singular can

be interpreted as the plural and vice versa. Orders placed for the Goods shall be subject to these conditions, whether or not specifically referred to,

and no other terms or conditions

or any prior or subsequent communications, representations or modifications shall be effective unless specifically agreed to in writing by the Seller.

Unless otherwise agreed, payment in full for all the Goods sold shall be due prior to shipment of the goods. No payment shall be deemed

to have been received until the Seller has received cleared funds.

All payments payable to the Seller under the Contract shall become due immediately upon termination of this Contract despite any other provision.

The Buyer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement

or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Seller to the Buyer.

Should the Buyer fail to make any payment due under the Contract on the due date then without prejudice to the Seller’s other rights and

remedies the Seller may suspend performance under this contract and the Seller shall be entitled to claim interest on the amount due under

the Late Payment of Commercial Debts (Interest) Act 1998 from the date the payment became due until the date of the actual payment.

The risk in the Goods shall pass to the Buyer on delivery of the Goods to a carrier or where a carrier is not used to the Buyer.

Ownership of the Goods shall not pass to the Buyer until the Seller has received in full (in cash or cleared funds) all sums due to it in respect

of: the Goods; and all other sums which are or which become due to the Seller from the Buyer on any account.

Until ownership of the Goods has passed to the Buyer, the Buyer must: hold the Goods on a fiduciary basis as the Seller’s bailee; store the

Goods (at no cost to the Seller) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable

as the Seller’s property; not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; maintain the

Goods in satisfactory condition and keep them insured on the Seller's behalf for their full price against all risks to the reasonable satisfaction of the Seller. On request the Buyer shall produce the policy of insurance to the Seller; and hold the proceeds of the insurance referred to in condition on trust for the Seller and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

The Buyer may resell the Goods before ownership has passed to it solely on the following conditions: -any sale shall be effected in the ordinary course of the Buyer's business at full market value; and any such sale shall be a sale of the Seller's

property on the Buyer's own behalf and the Buyer shall in such circumstances hold the entire proceeds of the sale in trust for the seller.

The Seller shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Seller.

The Buyer grants the Seller, its agents and employees an irrevocable license at any reasonable time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

Any time or date for delivery agreed by the Seller is an estimate only and the Seller shall not be liable for the consequences of any delay.

If no dates are specified, delivery will be within a reasonable time.

Delivery shall be taken by the Buyer within the period (if any) named in the quotation or Order and such full details as may be necessary (or required by the Seller) to enable the Seller to complete delivery within that period shall be supplied by the Buyer. If for any reason the Buyer is unable to accept delivery of Goods at the time when the Goods are ready for delivery: – risk in the Goods will pass to the Buyer (including for loss or damage caused by the Seller's negligence); the Goods will be deemed to have been delivered; and the Seller shall (if its storage facilities permit) store the Goods and take all reasonable steps to prevent their deterioration until actual delivery and the Buyer shall be liable to the Seller for the reasonable costs (including insurance) of its so doing.

This provision shall be in addition to and not in substitution for any other payment or damages for which the Buyer may become liable in respect of his failure to take delivery at the appropriate date.

If the seller delivers to the Buyer a quantity of Goods of up to 5% more or less than the quantity ordered by the Seller the Buyer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for such goods at the pro rata Contract rate.

Where the Specification is not supplied on the Seller's order form and has not already been supplied to the Seller and a Specification is to be supplied, the Buyer shall supply such Specification in reasonable time to enable the Seller to complete delivery within the period named for delivery.

The Buyer shall indemnify the Seller against all damages penalties costs and expenses to which the Seller may become liable if any work done in accordance with the Buyer's specification involves an infringement of any copyright registered design patent or other right.

The Buyer hereby agrees to grant to the Seller (to the extent that it is able) the right to use production overs for the purposes of demonstration and sampling and for use in advertising and/or promotional activities.

The Seller will not be responsible for any loss of data or media supplied by the Buyer and the Buyer must retain in its possession at least one copy of any films, master discs or other data media supplied to the Seller for the execution of the Order.

The Seller will keep any data media supplied by the Buyer for a maximum period of 6 months. At the expiration of the 6 month period the Seller may without further notice to the Buyer at its discretion either sell or destroy the items. Where the Seller is not the manufacturer of the Goods, the Seller will endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to the Seller included.

The Seller warrants that (subject to the other provisions of these conditions) upon delivery the Goods will be of satisfactory quality within the meaning of the Sale of Goods Act 1994.

No condition is made or to be implied nor is any warranty given or to be implied as to the life or wear of the Goods supplied or that they will be suitable for any particular purpose or use under any specific conditions notwithstanding that such purpose or conditions may be known to the Seller.

Any description of the goods (including the matching of any colour) given by the Seller or contained in any brochures or other descriptive matter is given by way of identification only and the use of such description shall not constitute a sale by description.

The Seller will use its best endeavours to ensure that any printed element of the Goods matches any proof but no warranty is given or implied that these printed elements will match the proof and the Buyer accepts that there may be variations between different production runs, printing processes, paper stock, disc print surfaces and finishing processes. Any Defects in any delivery shall not be a cause for cancellation of the remainder of any order or contract.

The Seller shall not be liable for a breach of the warranty in condition unless: the Buyer gives written notice of the defect to the Seller within 7 days of receipt of goods; and the Seller is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of Business at the Buyer's cost for the examination to take place there. The Seller shall not be liable for a breach of the warranty in condition if: the Buyer makes any further use of such Goods after giving such notice; or the defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, use or maintenance of the Goods or (if there are none) good trade practice; No claim for damage in transit shortage of delivery or loss of goods will be examined unless: in case of damage in transit or shortage of delivery a separate notice is given to the carrier concerned and to the Seller within seven days of the receipt of the relevant goods followed by a complete claim in writing within twenty-eight days of receipt of such goods or in the case of loss of goods notice in writing is given to the carrier concerned and to the Seller as soon as reasonably possible and a complete claim in writing made within seven days of the date on which the goods were delivered to the carrier by the Seller.

Where goods are accepted from the carrier concerned without being checked the delivery book of the carrier must be signed "not examined".

If any of the Goods do not conform with the warranty in the condition above the Seller shall

at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Seller so requests, the Buyer shall, at the Seller's expense, return the Goods or the part of such Goods which is defective to the Seller.

If the Seller complies with condition above it shall have no further liability for a breach of the warranty in the condition above in respect of such Goods.

In the event that the Seller opts to replace goods under the clause hereof the ownership of the goods which are replaced will revert to the Seller.

Subject to the condition on quality, the following provisions set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of: any breach of these conditions; and any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

Nothing in these conditions excludes or limits the liability of the Seller for death or personal injury caused by the Seller's

negligence, breach of contract or fraudulent misrepresentation.

Subject to conditions d and e above: – the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall

be limited to the price of the Contract in respect of any one occurrence; and the Seller shall not be liable to the Buyer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of the use or unavailability of such Goods or out of or in connection with the Contract even if the Seller has been advised of the possibility of such losses.

A number of defaults which together result in or contribute to the same loss or damage shall be treated as one occurrence in assessing the Seller's liability. The Seller shall always be awarded a reasonable opportunity to correct any default before being in breach of its obligations.

Neither party shall be liable for any delay or failure to meet its obligations (other than a payment obligation) under the contract due to any cause outside its reasonable control.

The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller such consent not to be unreasonably withheld.

The Seller may not assign the Contract or any part of it to any person, firm or company without the prior written consent of the buyer such consent not to be unreasonably withheld.

The Seller shall be entitled to determine at any time (by written notice posted or delivered to the last known address of the Buyer)

any subsisting contracts with the Buyer (but without prejudice to any pre-existing claim which

the Seller may have under these conditions or otherwise against the Buyer) if the Buyer: breaches the contract (including failure to pay any sum due) and, if capable of remedy fails to rectify such breach within 14 days of receiving written notice from the Seller; or has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe/perform any of his/its obligations under the Contract or any other contract between the Seller and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or encumbers or in any way charges any of the Goods.

If any of the circumstances listed above occur then, whether or not notice under that paragraph is given then in respect of any goods title to which has not passed to the Seller: the Buyer's right to possession of the Goods shall terminate immediately; and the Seller shall (without prejudice to any other claim or remedy which it may have) be entitled to recover possession of the Goods so long as they are still identifiable forthwith and shall be entitled to enter upon the premises of the Buyer and remove the Goods and shall not be liable for any damage or injury reasonably done to any other property of the Buyer to which the Seller's Goods have been attached during the course of removing the Seller's Goods and retaking possession thereof.

Should any provision of these Conditions be held to be wholly or partly illegal, invalid, void, unreasonable or unenforceable then such provision shall be given no effect and shall be deemed not to be included in these conditions but without invalidating any of the remaining provisions of these conditions. The Buyer and the Seller shall then use all reasonable endeavours to replace the invalid or unenforceable provision by a valid provision the effect of which is as close as possible to the intended effect of the invalid or unenforceable provision.

Any notice required or permitted to be given by either party to the other under these terms and conditions shall be in writing addressed to that other party and shall be sent to the address of that other party set out in the Contract or such other address as may at the relevant time have been notified pursuant to this provision to the party giving notice. Any notice may be delivered personally or by prepaid registered letter or facsimile transmission and shall be deemed to have been served if by personal delivery when delivered, if by registered post 48 hours after posting and if by facsimile transmission when despatched.

No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any provision.

The Contract shall be the entire agreement between the parties in relation to the subject matter hereof and to the exclusion of prior representations, undertakings, agreements or other communications. The Buyer acknowledges that no reliance is placed on any representations made but not embodied in the Contract.

The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by Northern Ireland Law and the parties agree to submit to the exclusive jurisdiction of the Northern Ireland Courts.