

TERMS AND CONDITIONS FOR NEXUS GRAPHIC SYSTEMS LIMITED

1. Definitions

“Client” means the individual and Company confirmed on the order form.

“Equipment” means all computer equipment and software provided by Nexus in accordance with the order form (as defined below)

“Nexus” means Nexus Graphics System Limited and having its registered office at 101 Dillotford Avenue, Stivichall, Coventry, CV3 3DT.

2. Parties Commitment

(a) These Terms and Conditions shall apply to all orders placed with Nexus by the Client. Acceptance by Nexus of any order is conditional upon acceptance by the Client of these Terms and Conditions which shall override all other terms and conditions inconsistent herewith, whether express implied or otherwise including but not limited to terms, conditions or stipulations contained in the Client’s purchase order or other form of writing or otherwise stipulated by the Client and which are at variance with or additional to these Terms and Conditions. The same shall not be binding upon Nexus unless specifically requested in writing and signed by a Director of Nexus.

(b) Nexus shall not be bound by the order until the Client has read and accepted the Terms and Condition.

(c) These Terms and Conditions shall supersede any arrangements made or existing between the parties prior to conclusion of this Agreement as specified in (b) and shall constitute the entire understanding between the parties hereto. Except as otherwise provided herein, no addition, amendment or modification of these Terms and Conditions, unless agreed in writing by a Director of Nexus.

(d) Nexus shall upon receipt of the fully completed order form and any supporting information required from the Client issue confirmation of acceptance of the order (“the Order Form”).

3. Prices

(a) The price of the Equipment is based on the cost prevailing at the date hereof and Nexus reserves the right to adjust the price by such an amount as may be necessary to cover any increase affecting Nexus after the date hereof attributable to market conditions prevailing at the date of delivery to the Client. Nexus shall give the Client seven (7) days prior written notice of any such increase .

(b) The price of the Equipment includes (where applicable and unless otherwise stipulated by Nexus or appearing as a separate item on page one), the licence fee for the Client’s right to use the operating system software and (where applicable) such other software supplied with the Equipment.

(c) Where more than one item of Equipment is listed on the Order Form, the price may be based on the quantity specified and accordingly Nexus reserves the right to adjust the price in the event of orders being placed by

the Client for a different quantity or in the event that the quantity actually delivered to the Client differs (for any reason) from that specified on the Order Form.

(d) The price of the Equipment is based on the supply of the Equipment to the address specified on the Order Form and is subject to adjustment in the event of delivery to a different address or in the event of modification being incorporated therein before or after delivery either at the request or with the consent or knowledge of the Client.

(e) All prices are exclusive of any applicable purchase tax and if applicable, packing and delivery unless confirmed in writing by Nexus.

4. Payment

(a) All invoices are due on the invoice date, unless confirmed otherwise with in writing by Nexus. Where credit terms are agreed with the Client, Nexus reserves the right to withdraw the same and request payment. Any discounts must be agreed in writing by Nexus.

(b) Where payment of the price or any part thereof is not made, Nexus without prejudice to its other rights hereunder or in law, shall be entitled to charge interest on the outstanding amount at the rate of 5 percent above base rate per month from the due date of the outstanding invoice or outstanding part thereof is paid.

(c) If the Client shall fail to take delivery of any Equipment ordered within twenty one (21) days of notification that it is ready for delivery, Nexus shall have the right to present its invoice for payment at any time after the expiry of the said period and payment shall be due thereon as if delivery had been made notwithstanding the Client’s liability for storage charges and Nexus’s lien therefore in accordance with the provisions of Clause 8 below.

(d) Should the Client fail to make payment upon receipt of the invoice, Nexus shall have the right by notice in writing forthwith to suspend all further manufacture, deliveries, installation or warranty service until the default be made good or at Nexus’s absolute discretion, to determine any orders where goods remain to be delivered, without prejudice to any other rights or remedies (including, without prejudice to the foregoing generality, re-possession of the Equipment in accordance with the provisions of Clause 10 below), which may be available to Nexus in accordance with these terms and conditions, this Agreement, at law or otherwise.

5. Software

With respect to all operating system software and applications to be supplied hereunder the following provisions shall apply.

(a) Where the Client has been furnished with a developers software licence, the same must be signed and returned to Nexus within seven (7) days or as otherwise specified in the said licence unless the said licence is a “shrink wrap” licence. In the event that the Client fails to sign and return the said licence in accordance with this sub-clause:

(i) Nexus reserves the right to withhold release of the Software; or

(ii) If the same has been delivered, to collect the Software from the Client

(b) the Client undertakes not to copy (other than for normal Equipment operation and except to the extent permitted by the applicable law), reproduce, translate, adapt, vary or modify the Software nor to communicate the same to any third party without Nexus prior written consent;

(c) the Client undertakes to use the Software only in the Equipment specified and undertakes not to remove, add to, change or otherwise tamper with any copyright notice, legend or logo appearing in or on the Software or the medium upon which it resides.

(d) the licence granted shall continue until or unless

1. either party gives to the other party one (1) month prior written notice of termination whereupon and before the expiry of which the Client undertakes to return or destroy the software as Nexus shall direct PROVIDED that Nexus shall only exercise its right to terminate in the event that the continued use or possession of the Software by the Client infringes the developer’s or third party rights or where Nexus is enforced so to do under the applicable law.

2. Nexus terminates the Licence forthwith if the Client fails or has failed to comply with any of the Terms and Conditions herein contained including but not limited to breach of copyright or confidentiality.

6. Drawings

All drawings, descriptive weights, dimensions and the descriptions and illustrations contained in the sales literature and price list are approximate only and shall not form part of these Terms and Conditions. In addition, drawings or technical documents issued with the order for the use or information of the Client and such other information as may be supplied to the Client including specifications shall not be copied, reproduced, or communicated to any third party without Nexus prior written consent.

7. Inspection and Testing

Not all Equipment undergoes testing before delivery. If testing is required by the Client the expense which is incurred thereby shall be borne by the Client.

8. Delivery and Installation

(a) Delivery dates are estimates only and unless Nexus expressly agrees in writing to be bound by a delivery date, Nexus shall not be liable for direct, indirect or consequential loss arising from part, late or non-delivery.

(b) Where Nexus expressly agrees in writing to be bound by a delivery date, Nexus liability, subject to Clause 9 and subject always to Clause 13 hereof, in respect of any loss or damage suffered by the Customer which is directly attributable to such part or late or non-delivery shall be limited to the value of the Equipment not delivered.



(c) Delivery shall be made during normal working hours (excluding local and national holidays). If the Client requires delivery to be made outside such times, an additional charge shall be payable. Nexus reserves the right to deliver in more than one delivery.

(d) The Client shall prepare the area of delivery and installation confirmed within the Order Form for the Equipment and provide free access to the location and to any services or facilities that may be required to deliver and install the Equipment. Where the same has not been prepared or provided and Nexus is prevented from carrying out delivery or installation at the pre-arranged day and time through no fault of Nexus, Nexus shall be entitled to charge for same.

9. Damage, Shortage or Loss in Transit

Nexus accepts responsibility for damage, shortage or loss in transit if:

(a) the same is notified to Nexus and the carrier (if not delivered by Nexus) within three days of receipt or proposed date of receipt of the Equipment by the Client; and (where applicable)

(b) the Equipment has been handled by the Client in accordance with Nexus or the carrier's conditions of carriage or handling stipulations.

Where Nexus accepts responsibility under this Clause, it shall, at its sole option, replace or repair (as the case may be) any such Equipment or part thereof, proved to Nexus' satisfaction to have been lost or damaged in transit.

10. Title to the Equipment

(a) Notwithstanding delivery, installation, acceptance and passing of risk, title to the Equipment shall not pass to the Client by shall be retained by Nexus until full payment for the Equipment has been received by Nexus from the Client.

(b) Until such time as title in the Equipment has passed to the Client, Nexus:

(i) shall be entitled to repossess at any time any of the Equipment in which title remains vested in Nexus;

(ii) for the purpose specified in (b)(i) above, Nexus or any of his agents or authorised representatives shall be entitled at any time and without notice to enter upon an premises in which the Equipment or any part thereof is installed, stored or kept, or is reasonably believed so to be;

(iii) shall be entitled to seek a Court injunction or equivalent judicial order under these Terms and Conditions to prevent the Client from selling, transferring or otherwise disposing of the Equipment.

(c) Until such time as title in the Equipment has passed to the client, the client shall, subject to Nexus' rights hereunder:

(i) hold the Equipment, software boxes, manuals and disks etc as Nexus' fiduciary agent and be entitled to use the same in the ordinary course of the Client's business; but shall not be entitled to sell or otherwise dispose of the possession thereof;

The aforementioned provisions relate to the Equipment and not to the Software which is subject to licence as specified in Clause 1 and 5 hereof and the terms of which

are (where applicable) contained in the developer's software licence or failing which, the licence contained in Clause 5 above.

11. Passing of Risk

Notwithstanding Clause 10 hereof, risk in the Equipment shall pass to the Client upon delivery by Nexus or its carriers to the Client or his agent and Nexus shall not be liable for any loss or damage to the Equipment from the time that the Equipment is so delivered.

12. Warranty

(a) Nexus agrees to assign to the Client the Warranty provided by the manufacturer for the Equipment supplied, so far as applicable.

13. Nexus' Liability

(a) Except to the extent that by the law relating to these Terms and Conditions such liability, Nexus shall not be liable to the Client for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with this Agreement, the Equipment, its use or otherwise.

(b) Notwithstanding the generality of (a) above, Nexus expressly excludes liability for consequential damage, including but not limited to loss or damage to data or to other equipment or property, (whether or not the same may be in Nexus' care, custody or control) or for the loss of profit, business, revenue, goodwill or anticipated savings.

(c) In the event that any exclusion of liability contained in these Terms and Conditions shall be held to be invalid for any reason and Nexus becomes liable for loss or damage that may be limited or capable of being limited in law, such liability shall be limited to the price of the Equipment specified on the order.

(d) Nexus does not exclude liability for death or personal injury to the extent that the same arises directly from the negligence of Nexus or its employees.

14. Copyright, Patents, Trade Marks and other Intellectual Property Rights

(a) The Client acknowledges that any and all of the trade marks, copyright, patents and other intellectual property rights used or subsisting in or in connection with the Equipment including software, hardware and other parts thereof in which Nexus or the respective manufacturer, developer or third party.

(b) In the event that new inventions, designs or processes evolve in performance or as a result of the order, the Client acknowledges that the same shall belong to Nexus unless otherwise agreed in writing by Nexus.

(c) The Client shall indemnify Nexus against all liabilities, costs and expenses which Nexus may incur as a result of work done in accordance with the Client's specifications involving infringement of any copyright, patent or other proprietary right.

15. Force Majeure

Nexus shall be under no liability to the Client in respect of anything which, apart from this provision, may

constitute breach of these Terms and Conditions arising by reason of *force majeure*, namely circumstances beyond the control of Nexus which shall include (but shall not be limited to) acts of God, perils of the sea or air, fire, flood, drought, explosion, sabotage, accident, embargo, riot, civil commotion, including acts of local government and parliamentary authority; shortage of supplies, equipment, materials, breakdown or shortage of equipment and labour disputes of whatever nature and for whatever cause arising, including but without prejudice to the generality of the foregoing, work to rule, overtime bans, strikes and lockouts and whether between either of the parties hereto and any or all of its employees and/or any other employer and any or all of its employees and/or between any two or more groups of employees (and whether of either of the parties hereto or any other employer).

16. Waiver

Failure or neglect by Nexus to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of Nexus' rights hereunder nor in any way affect the validity of the whole or any part of these Terms and Conditions nor prejudice Nexus' rights to take subsequent action.

17. Headings

The headings of the Terms and Conditions herein contained are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of any of the Terms and Conditions.

18. Severability

In the event that any or any part of these Terms and Conditions shall be determined by any competent authority to be invalid, unlawful or unenforceable to any extent such term, condition or provision shall to that extent be severed from the remaining terms and conditions which shall continue to be valid and enforceable to the fullest extent permitted by law.

19. Assignment

These Terms and Conditions shall not be assigned by the Client without prior written consent of Nexus.

20. Law

The parties hereby agree that the Terms and Conditions shall be construed in accordance with English law.