

# Ethiprint

## CONDITIONS OF SALE

### 1 Interpretation

1.1 In these Conditions:

‘BUYER’ means the person who accepts a quotation of Ethiprint for the sale of the Goods or whose order for the Goods is accepted by Ethiprint

‘GOODS’ means the goods (including any instalment of the goods) which Ethiprint is to supply in accordance with these Conditions

‘ETHIPRINT’ means Ethiprint Limited (registered number 2955208) of Sandown Road, Osmaston Park Industrial Estate, Derby, DE24 8SR

‘CONDITIONS’ means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and Ethiprint

‘CONTRACT’ means the contract for the purchase and sale of the Goods

‘WRITING’ includes telex, cable, facsimile 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 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 Sale

2.1 Ethiprint shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of Ethiprint which is accepted by the Buyer, or any written order of the Buyer which is accepted by Ethiprint, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.

2.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and Ethiprint.

2.3 Ethiprint’s employees or agents are not authorised to make any representations concerning the Goods unless confirmed by Ethiprint in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

2.4 Any advice or recommendation given by Ethiprint or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by Ethiprint is followed or acted upon entirely at the Buyer’s own risk, and accordingly Ethiprint shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

### 3 Orders and specifications

3.1 No order submitted by the Buyer shall be deemed to be accepted by Ethiprint unless and until confirmed in Writing by Ethiprint’s authorised representative.

3.2 The Buyer shall be responsible to Ethiprint for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving Ethiprint any necessary information relating to the Goods within a sufficient time to enable Ethiprint to perform the Contract in accordance with its terms.

3.3 The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller’s quotation (if accepted by the Buyer) or the Buyer’s order (if accepted by Ethiprint).

3.4 If the Goods are to be manufactured or any process is to be applied to the Goods by Ethiprint in accordance with a specification submitted by the Buyer, the Buyer shall indemnify Ethiprint against all loss, damages, costs and expenses awarded against or incurred by Ethiprint in connection with or paid or agreed to be paid by Ethiprint in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from Ethiprint’s use of the Buyer’s specification.

3.5 Ethiprint reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EC requirements or, where the Goods are to be supplied to Ethiprint’s specification, which do not materially affect their quality or performance.

3.6 No order which has been accepted by Ethiprint may be cancelled by the Buyer except with the agreement in Writing of Ethiprint and on terms that the Buyer shall indemnify Ethiprint in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Ethiprint as a result of cancellation.

### 4 Price of the goods

4.1 The price of the Goods shall be Ethiprint’s quoted price. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by Ethiprint without giving notice to the Buyer.

4.2 The Seller 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 Ethiprint which is due to any factor beyond the control of Ethiprint (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change 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 Ethiprint adequate information or instructions.

4.3 Except as otherwise stated under the terms of any quotation and unless otherwise agreed in Writing between the Buyer and Ethiprint, all prices are given by Ethiprint on a delivery basis, [including of normal packaging and insurance] to the Buyer’s delivery address specified in an accepted order. Ethiprint reserves the right to charge in addition for special packaging and/or express delivery.

4.4 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to Ethiprint.

### 5 Terms of Payment

5.1 Subject to any special terms agreed in Writing between the Buyer and Ethiprint, Ethiprint shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event Ethiprint shall be entitled to invoice the Buyer for the price at any time after Ethiprint has notified the Buyer that the Goods are ready for collection or (as the case may be) Ethiprint has tendered delivery of the Goods.

5.2 The Buyer shall pay the price of the Goods (without any deduction), within 30 days of the end of the month in which Ethiprint tender delivery of the Goods, and Ethiprint shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

5.3 If the Buyer fails to make any payment on the due date then, without

prejudice to any other right or remedy available to Ethiprint, Ethiprint shall be entitled to:

5.3.1 *cancel the contract or suspend any further deliveries to the Buyer;*

5.3.2 *appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and Ethiprint) as Ethiprint may think fit (notwithstanding any purported appropriation by the Buyer); and*

5.3.3 *charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 2 per cent per annum above National Westminster Bank Plc base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).*

### 6 Delivery

6.1 Delivery of the Goods shall be made by Ethiprint delivering the Goods to the Buyer’s delivery address specified in the accepted order.

6.2 Any dates quoted for delivery of the Goods are approximate only and Ethiprint shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by Ethiprint in writing. The Goods may be delivered by Ethiprint in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.3 Where delivery of the Goods is to be made by Ethiprint in bulk, Ethiprint reserves the right to deliver up to 10 per cent more or 10 per cent less than the quantity ordered without any adjustment in the price, and the quantity so delivered shall be deemed to be the quantity ordered.

6.4 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by Ethiprint to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.5 If Ethiprint fails to deliver the Goods for any reason other than any cause beyond Ethiprint’s reasonable control or the Buyer’s fault, and Ethiprint is accordingly liable to the Buyer, Ethiprint’s liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

6.6 If the Buyer fails to take delivery of the Goods or fails to give Ethiprint adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer’s reasonable control or by reason of Ethiprint’s fault) then, without prejudice to any other right or remedy available to Ethiprint, Ethiprint may:

6.6.1 *store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or*

6.6.2 *sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.*

### 7 Risk and property

7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:

7.1.1 *in the case of Goods to be delivered at Ethiprint’s premises, at the time when Ethiprint notifies the Buyer that the Goods are available for collection; or*

7.1.2 *in the case of Goods to be delivered otherwise than at Ethiprint’s premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when Ethiprint has tendered delivery of the Goods.*

### 8 Warranties and liability

8.1 Subject to the conditions set out below Ethiprint warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 6 months from the date of their initial use or 6 months from delivery, whichever is the first to expire.

8.2 The above warranty is given by Ethiprint subject to the following conditions:

8.2.1 *Ethiprint shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;*

8.2.2 *Ethiprint shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow Ethiprint’s instructions (whether oral or in writing), misuse or alteration or repair of the Goods without Ethiprint’s approval;*

8.2.3 *Ethiprint shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;*

8.2.4 *the above warranty does not extend to parts, materials or equipment not manufactured by Ethiprint, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to Ethiprint.*

8.3 *Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.*

8.4 Where the Goods are sold under a consumer transaction (as defined by the Sale of Goods Act 1979) the statutory rights of the Buyer are not affected by these Conditions.

8.5 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to Ethiprint within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify Ethiprint accordingly, the Buyer shall not be entitled to reject the Goods and Ethiprint shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

8.6 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to Ethiprint in accordance with these Conditions, Ethiprint shall be entitled to replace the Goods (or the part in question) free of charge or, at Ethiprint’s sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but Ethiprint shall have no further liability to the Buyer.

8.7 Except in respect of death or personal injury caused by Ethiprint’s negligence, Ethiprint shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of Ethiprint, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, except as expressly provided in these Conditions.

8.8 Ethiprint shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of Ethiprint’s obligations in relation to the Goods, if the delay or failure was due to any cause beyond Ethiprint’s reasonable control. Without prejudice to the generality of the

foregoing, the following shall be regarded as causes beyond Ethiprint’s reasonable control:

8.8.1 *Act of God, explosion, flood, tempest, fire or accident;*

8.8.2 *war or threat of war, sabotage, insurrection, civil disturbance or requisition;*

8.8.3 *acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;*

8.8.4 *import or export regulations or embargoes;*

8.8.5 *strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of Ethiprint or of a third party);*

8.8.6 *difficulties in obtaining raw materials, labour, fuel, parts or machinery;*

8.8.7 *power failure or breakdown in machinery.*

### 9 Indemnity

9.1 If any claim is made against the Buyer that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, Ethiprint shall indemnify the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:

9.1.1 *Ethiprint is given full control of any proceedings or negotiations in connection with any such claim;*

9.1.2 *the Buyer shall give Ethiprint all reasonable assistance for the purposes of any such proceedings or negotiations;*

9.1.3 *except pursuant to a final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of Ethiprint (which shall not be unreasonably withheld);*

9.1.4 *the Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavours to do);*

9.1.5 *Ethiprint shall be entitled to the benefit of, and the Buyer shall accordingly account to Ethiprint for, all damages and costs (if any) awarded in favour of the Buyer which are payable by or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by any other party in respect of any such claim; and*

9.1.6 *without prejudice to any duty of the Buyer at common law, Ethiprint shall be entitled to require the Buyer to take such steps as Ethiprint may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which Ethiprint is liable to indemnify the Buyer under this clause.*

### 10 Insolvency of Buyer

10.1 This clause applies if:

10.1.1 *the Buyer makes any voluntary arrangement 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 purposes of amalgamation or reconstruction); or*

10.1.2 *an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or*

10.1.3 *the Buyer ceases, or threatens to cease, to carry on business; or*

10.1.4 *Ethiprint reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.*

10.2 If this clause applies then, without prejudice to any other right or remedy available to Ethiprint, Ethiprint 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 the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

### 11 Export Terms

11.1 In these Conditions ‘Incoterms’ means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

11.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 11 shall (subject to any special terms agreed in writing between the Buyer and Ethiprint) apply notwithstanding any other provision of these Conditions.

11.3 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon.

11.4 Unless otherwise agreed in Writing between the Buyer and Ethiprint, the Goods shall be delivered FOB the air or sea port of shipment and Ethiprint shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

11.5 The Buyer shall be responsible for arranging for testing and inspection of the Goods at Ethiprint’s premises before shipment. Ethiprint shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

11.6 Payment of all amounts due to Ethiprint shall be made by irrevocable letter of credit opened by the Buyer in favour of Ethiprint and confirmed by a bank in England acceptable to Ethiprint or, if Ethiprint has agreed in Writing on or before acceptance of the Buyer’s order to waive this requirement, by acceptance by the Buyer and delivery to Ethiprint of a bill of exchange drawn on the Buyer payable 60 days and confirmed by the order of Ethiprint at such branch of National Westminster Bank Plc in England as may be specified in the bill of exchange.

11.7 The Buyer undertakes not to offer the Goods for resale in any country notified by Ethiprint to the Buyer at or before the time the Buyer’s order is placed, or to sell the Goods to any person if the Buyer knows or has reason to believe that that person intends to resell the Goods in any such country.

### 12 General

12.1 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.

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

12.3 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.

12.4 Any dispute arising under or in connection with these Conditions or the sale of the Goods shall at the discretion of Ethiprint be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of the Law Society, in accordance with the rules of arbitration pursuant to the Arbitration Acts.

12.5 The Contract shall be governed by the laws of England and in the event of Ethiprint not exercising its discretion to refer a dispute to arbitration pursuant to sub-clause 12.4 above each party hereby submits to the exclusive jurisdiction of the Supreme Court of Judicature of England and Wales.