

Carnival Digital Graphics - CONDITIONS OF TRADING

1. INTERPRETATION

1.1 In these Conditions the following words shall have the meanings ascribed to them: Business Graphics - means information supplied to the Company by the Client on computer disk for imaging by the Company; The Client - means the person to whom the Goods are supplied pursuant to these Conditions;

The Company - means Carnival Digital Graphics

The Conditions - means these conditions of trading as amended in writing from time to time by the Company

Costs of Production - means the direct costs incurred by the Company in connection with the provision of the Goods including (by not limited to) costs of raw materials, labour, transport, freight, packing and power;

Creative Work - means all preparatory work developed, produced and/or furnished to the Client by the Company

The Goods - means the publicity materials and other goods supplied in accordance with these Conditions;

Media - means all and any source material and data including (but not limited to) magnetic tapes, discs, optical material, internet, computer programs or other software, hand-written or typed material, artwork produced by the Client, printed material and photographic or other material of whatever description;

Writing - includes telex, cable, facsimile transmission, email and comparable means of communication and 'written' shall be construed accordingly;

1.2 The heading in these Conditions are for convenience only and shall not affect their interpretation.

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

2. APPLICATION

These Conditions apply to all sales of the Goods and the provision of any services in connection therewith by the Company to the Client and shall apply in place of and prevail over any terms or conditions contained or referred to in the Client's order or in correspondence or elsewhere or implied by trade, custom, practice or course of dealing unless specifically agreed to in writing by a director or other authorised representative of the Company and any purported provisions to the contrary are hereby excluded or extinguished. No addition to or variation of these Conditions shall be valid and binding upon either the Client or the Company unless specifically agreed to in writing by the Company and signed by a duly authorised representative of the Company.

3. ORDERS

3.1 Verbal price estimated may be given by authorised representatives of the Company and are not binding upon the Company and do not constitute an offer. Such verbal estimates are usually given where the Company has not seen the Media and is requested by the Client to give an estimate for the price of the Goods.

3.2 Written quotations will be given by the Company upon request and upon sight by the Company of the Media from which the Client requires the Goods to be produced.

3.3 A quotation by the Company shall be valid for 30 days and the Company reserves the right to withdraw or revise the same at any time prior to the Company's acceptance of the Client's order.

4. PRICES

4.1 The price of the goods shall be the price stated in the quotation or when no price has been quoted or a quoted price is no longer the valid price contained in the Company's price list therefore current at the of acceptance of the order.

4.2 Unless otherwise agreed in writing by a director of the Company the prices shown in any quotation are subject to amendment at any time in response to:-

4.2.1. any of the circumstances described elsewhere in these Conditions.

4.2.2. any rise or fall in the Company's Costs of Production.

4.2.3. any request by the client to extend the period of any quotation beyond its agreed validity date.

4.2.4. any amendment to the goods which is requested by the client or which is, in the Company's discretion reasonably necessary to achieve the product which the Company understands the Client requires and which is consistent with the Company's high standards.

4.2.5. any amendment in the Client's instructions to the Company (including any reduction in any agreed delivery period); or

4.2.6. Media supplied differing from that which had been originally described and/or not being clear and legible. Any amendment so made will include overtime working costs, where incurred, at the Company's discretion.

4.3 All prices and charges are unless indicated to the contrary, exclusive of any applicable value added tax or duties which the Client shall be additionally liable to pay to the Company at the rate prevailing at the date of invoice.

4.4 All work carried out at the client's request, whether experimentally or otherwise, shall be charged.

4.5 The company shall be entitled to make a reasonable charge for the provision of any goods or services ordered by the Client for which no payment or charging basis is set out in any quotation or is otherwise agreed.

4.6 Except as otherwise stated under the terms of any quotation or any price list of the Company or unless otherwise agreed in writing between the Client and the Company all prices are given by the Company on an ex-works basis and where the Company agrees to deliver the Goods otherwise than at the Company's premises, the Client shall be liable to pay the Company's charges for transport, packaging and insurance.

4.7 The minimum order value shall be set out in the company's current price list from time to time.

5. TERMS OF PAYMENT

5.1 Subject to any special terms agreed in writing between the Client and the Company, the Company shall be entitled to invoice the client 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 Client or the Client wrongfully fails to take delivery of the Goods, in which event the Company shall be entitled to invoice the Client for the price any time after the Company has notified the Client that the Goods are ready for collection or (as the case may be) the

Company has tendered delivery of the Goods. For the purposes of this sub-clause delivery of the Goods to a carrier for the purpose of transmission to the Client or its designated addressee shall be deemed to be deliver to the Client.

5.2 Payment of invoices shall unless otherwise agreed in writing be made in full without any deduction or set-off within 7 days of the date of invoice where part or all of the Goods comprise Goods supplied by the Company prepared from Business Graphics and within 30 days of the date of invoice in all other cases.

5.3 Interest shall be payable by the Client on overdue accounts at the rate of 8% over HSBC base rate to run from the due date for payment thereof until receipt by the Company of the full amount whether before or after judgement.

5.4 The Company may require full or partial payment of the price prior to delivery or commencement of work by the Company or the provision of security for payment by the Client in a form acceptable to the Company.

6. DELIVERY

6.1 Delivery of the Goods shall be made by the Client collecting the goods at the Company's premises within a reasonable time after the Company has notified the Client that the goods are ready for collection or, if some other place for delivery is agreed by the Company, by the Company delivering the Goods (at the Client's cost) to that place.

6.2 Delivery dates mentioned in any quotation, acknowledgement of order or elsewhere are approximate only and not of any contractual effect and although the Company shall use its reasonable endeavours to meet delivery dates it shall not be under any liability to the Client in respect of any failure to deliver on any particular date or dates. The Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the client in no circumstances shall the company be liable for any delay in transit howsoever caused.

6.3 If the Client refuses or fails to take delivery of Goods tendered in accordance with the contract or fails to take any action necessary on its part for delivery and/or shipment of the Goods the Company shall be entitled at its option.

6.4 Unless otherwise expressly agreed the Company may effect delivery of the Goods in one or more instalments. Where delivery is effected by instalment each instalment shall be treated as a separate contract and failure by the Company to deliver any one or more instalments in accordance with these conditions or any claim by the Client in respect of any one or more instalments shall not entitle the Client to treat the contract as a whole as repudiated.

6.5 The company shall be entitled to levy an additional charge where the Client requires expedited delivery of the Goods.

7. PROOFS

7.1 The company will accept no responsibility in the event of the Client failing to correct errors in proofs or to notify the Company forthwith of any adverse results of media tests. Any changes in the Goods which the Client requests or makes may incur the Client in additional charges and/or delays. The company excludes all liability of whatever kind in respect of such delays and/or charges. When style and layout changes are left to the Company's judgement, changes therefrom made by the Client shall be charged extra at the Company's standard cost in force from time to time. Because of differences in equipment, film and processing, proofing substrates, paper, inks, pigments and other condiments between colour proofing and production operations a reasonable variation in colour between proofs and the goods shall constitute acceptable performance by the Company.

7.2 All quotations provide for one proofing only unless otherwise stated in writing. Errors in this initial proofing will be corrected by the Company free of charge. An extra charge will be made for additional proofing.

8. RISK AND TITLE

8.1 Risk of damage to or loss of goods shall pass to the client:

8.1.1 in the case of goods to be delivered at the Company's or its agents premises at the time when the Company notifies the Client that the goods are available for collection: or

8.1.2 in the case of Goods to be delivered otherwise than at the Company's or its agent's premises, at the time of delivery or if the Client or its designated addressee wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods. (For the purpose of this sub-clause in the event of the Company sending Goods to the Client or its designated addressee delivery of the Goods to the carrier for the purpose of such transmission is deemed to be a delivery of the Goods to the Client or his designated addressee); or

8.1.3 in either case, if earlier, when an invoice for any of the Goods shall have been delivered to the Client.

8.2 Notwithstanding delivery and the passing of risk in the goods or any other provision of these Conditions, the property in the Goods shall not pass to the Client until the Company had received in cash or cleared funds payment in full of the price of the Goods together with any other amounts (including rent and storage charges) payable pursuant to the Contract.

8.3 To the extent to which the goods or any part of them shall have been delivered to the Client or its agent and until such time as the property in the Goods passes to the Client, the Client shall hold the Goods as the Company's fiduciary agent and bailee and:

8.3.1 shall keep the Goods separate from other goods of the Client and third parties and properly stored, protected and insured and identified as the Company's property.

8.3.2 (provided the Goods are still in existence and have not been resold to a bona fide purchaser for value without notice of the Company's property in the goods) the Company shall be entitled at any time to require the Client to deliver up the Goods to the Company and if the Client fails to do so forthwith to enter upon any premise of the Client or any third party where the Goods are stored and repossess the Goods.

8.4 Until the property in the Goods shall have passed to the Client it shall be entitled to use the Goods in the ordinary course of its business but shall account to the Company for the proceeds of sale or otherwise of the Goods whether tangible or intangible including insurance proceeds and shall keep all such proceeds properly stored protected and insured.

8.5 The client shall not be entitled to pledge or in any way charge by way of security to any indebtedness any of the Goods which remain the property of the Company but if the Client does so all monies owing by the Client to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

9. CLAIMS

Claims for defects, damages or shortages to or in the Goods must be made by the Client in writing to the Company and any carrier within five working days after delivery of all or any part of the Goods. Queries on invoices must be made in writing within thirty days of the date of invoice. Claims involving non-delivery must be made within five working days of the dated upon which delivery was expected by the Client. Failure to

make such claim within the stated period shall constitute irrevocable acceptance and an admission that the Goods fully comply with all terms, conditions and specifications.

10. LIABILITY

10.1 Except in relation to contract with persons dealing as consumers (within the meaning of the Unfair Contract Terms Act 1977) all representations, guarantees, undertakings, conditions and warranties, whether express or implied by statute or common law or otherwise are excluded from this Contract to the fullest extent permitted by law.

10.2 In no circumstances shall the Company be under any liability for negligence or otherwise howsoever in respect of any advice given to the Client. Without prejudice to the foregoing the Company shall in no circumstances be liable for incidental or consequential loss (including without limitation loss of profits of production) suffered by the client or otherwise.

10.3 Nothing herein contained shall exclude or restrict any liability for death or bodily injury caused by the negligence of the company or persons for whom it is accountable.

10.4 Any property of the client and all property supplied to the company by, on behalf or at the direction of the Client which, in connection with the Contract, is at premises of or used by the Company or sub-contractors of the Company or which is in transit between any of those premises at different locations or in transit between the Client and the Company, remains at the sole risk of the Client at all times and the Client is advised to take out and maintain suitable insurances in respect thereof.

10.5 Any question or difference which may arise between the Company and the Client concerning the quality of the Goods shall be referred to a single arbitrator to be agreed between the parties. Failing such agreement within 30 days of the request by one party to the other that a matter be referred to arbitration in accordance with this clause such reference shall be to an arbitrator appointed by the President for the time being of the London Chamber of Commerce. The decision of such arbitrator shall be final and binding on the Parties. Any reference under this clause shall be deemed to be a reference to arbitration within the meaning of the Arbitration Acts 1950 and 1979.

10.6 The parties recognise that it is the obligation of the Company to produce the Goods from the Media supplied to it (if any) and not to detect or notify the Client of errors or omissions in that Media.

10.7.1 Where liability is accepted by the Company under this clause 10 the Company's only obligation shall be at its option to make good any shortage or non-delivery and/or as appropriate to replace or repair any of the Goods found to be damaged or defective and/or to refund the cost of any such Goods to the Client.

10.7.2 The Company's aggregate liability to the client whether for negligence, breach of contract, misrepresentation or otherwise shall in no circumstances exceed the cost of the defective, damaged or undelivered goods which gave rise to such liability as determined by the net price invoiced to the Client in respect of any occurrence or series of occurrences.

10.8 The Company's prices are determined on the basis of the limits of liability set out in these Conditions. The Client may be written notice to the Company request the Company to agree a higher limit of liability provided insurance cover can be obtained therefor. The Company shall effect insurance up to such limit and the Client shall pay upon demand the amount of any and all premiums. The Client shall disclose such information as the insurers shall require. In no case shall the Client be entitled to recover from the Company more than the amount received from the insurers.

10.9 The Company shall not be liable to the Client for any loss or damage which may be suffered by the Client as a direct or indirect result of the supply of the Goods by the company prevented, hindered, delayed or rendered uneconomic by reason of circumstances or events beyond the Company's reasonable control including but not limited to Act of God, war, riot, strike, lock-out, trade dispute or labour disturbance, accident, break-down of plant or machinery, fire, flood, storm, difficulty or increased expense in obtaining workmen, materials or transport or other circumstances affecting the supply of the goods or of raw material therefor by the Company's normal source of supply or the manufacture of the goods by the Company's normal means or the delivery of the Goods by the company's normal route or means of delivery. If due to such circumstances or events the Company has insufficient stocks to meet all its commitments the Company may apportion available stocks between its Clients at its sole discretion.

11. CLIENT PROPERTY

11.1 The client is advised to retain copies of all Media and Business Graphics supplied to the Company.

11.2 The Client shall insure all the Goods and all Media supplied by the Client against risk of loss or damage with effect from the date of supply to the Company (in the case of Media) or from the earlier of the date of any invoice, or any despatch note or advice note accompanying any of the goods which is issued in relation to all or any of the Goods.

11.3 The Company only undertakes to make such arrangements (including without limitation computer processing, creation of backup and operation methods) to keep secure and confidential all Media deposited with it by the Client as may be agreed and specified by the Company in writing. In any event the Client shall take security copies of any Media before it is delivered to the Company.

11.4 The Client shall be liable for any loss or damage (including, without limitation loss of profit and consequential loss) caused by any of the Client's property.

12. DATA STORAGE

12.1 In producing the Goods from the Business Graphics the Company may use electronic processes for the storage and manipulation of data. Data stored for this purpose is not usually retained by the company after the completion of the work. Certain data is stored on magnetic disc in final form prior to the production of the Goods. The Company will arrange for archival storage of Business Graphics data at extra cost if requested to do so in writing by the Client.

12.2 In producing the Goods other than from the Business Graphics the Company usually archives data and will retrieve and copy such archived data at the Client's request upon payment by the Client of such reasonable sum as the Company from time to time considers appropriate. The Client is reminded of clause 11.1. The Company does not guarantee that it will store any data or that if data is stored, such storage will enable such data to be retrieved.

12.3 Data stored by the Company in accordance with this condition shall remain the Company's exclusive property and the company shall be entitled to exercise absolute discretion over its use and retention.

13. COPYRIGHT

13.1 The Company shall own all copyright and other intellectual property rights relating to or capable of acquisition in relation to (including without limitation, design right, whether registered or unregistered) the Goods.

13.2 The Company hereby grants to the Client a royalty-free licence to use the Goods only for the purposes agreed between the Company and the Client (whether in writing or otherwise) at the time of the Contract.

13.3 Where the Client wishes to use the Goods for any purpose other than that agreed by the Client and the Company pursuant to clause 13.2 the Client will obtain the Company's prior permission in writing and in such cases the Company shall be entitled to charge the Client such amount as the Company in its sole discretion considers reasonable for such additional use.

14. ILLEGAL MATTER

The Company may refuse to supply or continue to supply any Goods if in its opinion the content of the Goods (or any part of them) is offensive and/or to do so would be likely to result in civil or criminal proceedings against it. Any Goods seized or ordered to be destroyed or made the subject of any injunction shall thereupon be deemed to have been delivered to the Client and the Company shall be paid for the same and for all other Goods carried out on or before the date of such seizure order or injunction as if so delivered.

15. CREATIVE WORK

Creative Work shall remain the Company's exclusive property and no use of it shall be made nor any ideas obtained therefrom be used, except upon payment by the Client of reasonable compensation to be determined by the Company.

16. INDEMNITY

16.1 If any claim is made against the Company that any of the Goods infringes or that its use or resale infringes the patent, copyright, design, trademark or other industrial or intellectual property rights of any other person or contains any illegal or libellous or offensive content, the Client shall indemnify the Company against all loss, damage, costs and expenses awarded against or incurred by the Company in connection with the claim or paid or agreed to be paid by the Company in settlement of the claim and in such respect the Client irrevocably agrees that:

16.1.1 the Company or its insurers (or their agents) is given full control of any proceedings or negotiations in connection with any such claim if they so require: and

16.1.2 the Client shall give the Company all reasonable assistance for the purposes of any such proceedings or negotiations: and

16.1.3 the Client shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Client may have in relation to any such claim and in the event of the Client recovering any sums under any such policy or cover (which the Client shall use its best endeavours to do) the Client shall apply such sums towards discharging its liability to the Company under the terms of this indemnity: and

16.1.4 without prejudice to any duty of the Client at common law, the Company shall be entitled to require the Client to take such steps as the Company may reasonably require to mitigate or reduce any such loss, damage, cost or expenses for which the Client is liable to indemnify the Company under this clause.

17. TERMINATION

17.1 Without prejudice to any other right or remedy available to the company the company shall be entitled to terminate the Contract forthwith and/or suspend any further deliveries under the Contract and/or to do no further work without any liability to the Client and/or exercise the lien referred to in this condition upon the happening of one or more of the following events:

17.1.1 the Client fails to make in full any payment to the Company (whether in respect of the Goods, or otherwise) within seven days of its due date or to remedy any other breach under this or any other contract between the Company and the Client forthwith upon being so required in writing: or

17.1.2 the Client 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

17.1.3 an encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Client: or

17.1.4 the Client ceases to or threatens to cease to carry on business or

17.1.5 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Client and notifies the Client accordingly.

17.2 Termination of this Contract under this or any other clause shall not prejudice any other rights or remedies available to either party howsoever arising.

17.3 The Company shall have a general lien on the Goods and any other property of the Client in the Company's possession or under its control (whether worked on or not) and shall be entitled on the expiration or fourteen (14) days notice to dispose of such Goods or property in such manner and at such prices as the Company deems appropriate and to apply the proceeds of sale towards any amounts payable to the Company by the Client pursuant to the Contract. The Client hereby grants to the Company and its agents such licences, consents, authorities and permissions as may be required to enable the Company lawfully and properly to execute such lien disposal to proceed and if the Client is not competent to grant them it will procure that they are granted to the Company on such terms as the Company may reasonably require before the end of the notice period. The Client shall indemnify and keep indemnified the Company and its agents against all and any loss cost, expense, claim action or liability whatsoever they may suffer or incur by reason of any breach by the Client of its obligations hereunder.

18. SUB-CONTRACTORS

The Company may at its sole and absolute discretion, sub-contract any or all of its obligations but shall remain liable to the Client therefore.

19. GENERAL

19.1 Failure by the Company to exercise or enforce any rights hereunder shall not be deemed to be waiver of any such right nor operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

19.2 Any notice hereunder shall be deemed to have been duly given if sent by prepaid first class post, telex or telegraph to the party concerned at its last known address. Notices sent by first class post shall be deemed to have been given seven days after despatch and notices sent by telex or telegraph shall be deemed to have been given on the date of despatch.

19.3 The contract shall be governed by and construed in accordance with the Laws of England the parties hereby submit to the jurisdiction of the English Courts.