

## Terms and Conditions of Purchase for [www.pacificmarketingsuite.co.uk](http://www.pacificmarketingsuite.co.uk)

### 1 Definitions and Interpretation

1.1 In these Terms and Conditions of Business (save where the context otherwise requires) the following expressions shall have the following meanings :-

<b>“Account”</b>	means any account relating to the use of the Web-Portal and the purchase of Goods held by a Purchaser with J Limited
<b>“Content”</b>	means any text, graphics, images, audio, video, software, data compilations and any other form of information capable of being stored in a computer that appears on or forms part of the Web-Portal
<b>“Goods”</b>	means those goods and products that J Limited advertises or makes available for sale on the Web-Portal
<b>“J Limited”</b>	means J Limited (Company Registration No. 03102484) whose registered office is at 107 Churchway, Haddenham, Buckinghamshire HP17 8LG
<b>“Purchaser”</b>	means the person(s) purchasing the Goods from J Limited
<b>“Terms”</b>	means these Terms and Conditions of Business governing the sale and provision by J Limited and the purchase by the Purchaser of the Goods
<b>“Web-Portal”</b>	means the web-based software made available through the web-browser with address <a href="http://www.pacificmarketingsuite.co.uk">www.pacificmarketingsuite.co.uk</a> and any sub-domains of the same unless expressly excluded by separate terms and conditions governing the use thereof

1.2 Words importing the singular number only shall include the plural number and vice versa and where a party consists of more than one person obligations and agreements of that party shall take effect as joint and several obligations and agreements.

1.3 The clause headings in these Terms are for ease of reference only and shall not be taken into account in the construction or interpretation of the clauses to which they refer.

1.4 Words importing the neuter shall include the masculine and feminine and words denoting natural persons shall include corporations and firms and all such words shall be construed interchangeably in that manner.

1.5 Words denoting an obligation on a party to do any act, matter or thing shall include an obligation to procure that it be done and words placing a party under a restriction shall include an obligation not to permit or allow infringement of such restriction.

1.6 These Terms supersede any prior agreement (oral or in writing) between the parties and the parties acknowledge that these Terms contain the whole agreement between them and that the Purchaser has not relied upon any oral or written representations made by J Limited or its employees or agents.

1.7 These Terms shall be governed by the laws of England and the parties shall submit any dispute arising hereunder to the exclusive jurisdiction of the English Courts.

### 2. Request for Goods

2.1 If the Purchaser wishes to purchase Goods the Purchaser will submit an order to J Limited using the Web-Portal such order detailing the Goods required by the Purchaser together with all necessary information and data (including but not limited to size, model, colour, number and other features) in relation to the same

2.2 In placing an order for the Goods in accordance with Clause 2.1 the Purchaser confirms to J Limited that the Purchaser accepts and understands these Terms and agrees to be bound by them. The Purchaser's order is subject to acceptance by J Limited and a contract will only come into being upon such acceptance and in accordance with these Terms.

- 2.3 Should the Purchaser wish to cancel or amend the Purchaser's order for Goods, the Purchaser must inform J Limited in writing within 24 hours of making the order, which for the purpose of this Clause only, time shall be of the essence, and such cancellation or amendment shall only be valid if it is acknowledged, confirmed and accepted by J Limited in writing. J Limited has the right to charge the Purchaser a cancellation fee and/or has the right to charge up to 100% of the value of the order depending on the amount of work carried out in relation to such order made by the Purchaser (in addition to all cancellation/termination/amendment fees payable by J Limited to any third party). The level of such fees shall be at the sole discretion of J Limited. If the Goods ordered by the Purchaser have already been despatched by J Limited to the Purchaser, the Purchaser must return the Goods to J Limited's place of business immediately.
- 2.4 In the event that the Purchaser customises or is able to customise, change, amend or alter any Goods the Purchaser hereby acknowledges and agrees that it is fully responsible in respect of such customisation, change, amendment or alteration to include (but not limited to) proof reading and checking the same and further acknowledges and agrees that J Limited shall have no responsibility or liability whatsoever in respect of any errors made by the Purchaser

### **3 Supply of Goods**

- 3.1 J Limited will supply the Goods, subject to Clause 4, in accordance with the estimated time for delivery as notified to the Purchaser.
- 3.2 If J Limited is unable to supply the Goods within a reasonable time after any date given for delivery it may at its sole discretion cancel the Purchaser's order and return any money already paid by the Purchaser, but without interest, compensation or any other payment whatsoever.

### **4 Time not of the essence**

J Limited shall use its reasonable endeavours to meet any times and dates specified for performance of its obligations contained in these Terms. However, all such times and dates are approximate only and J Limited shall not be deemed to be in breach of the Terms and shall not be liable in any manner for any delay, for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by any delay in the performance of its obligations and, subject to Clauses 2.3, 5.5 and 7.2, time shall not be of the essence of these Terms.

### **5 Delivery**

- 5.1 Delivery shall be deemed to take place when the Goods are delivered to the Purchaser's address or are sent via email or online to the Purchaser via the Web-Portal.
- 5.2 The price for the Goods, if appropriate, shall include the cost of delivery to the Purchaser's address specified in the Purchaser's order. J Limited will not be required to deliver an order in instalments or to more than one address. However, if the Purchaser requests J Limited to deliver the Goods in instalments or to a different address than that specified in the Purchaser's order, J Limited will be entitled to make an additional charge to the Purchaser calculated in accordance with the extra costs incurred by it in respect of such delivery plus an administration fee of 10% thereof and which, if possible, will be notified to the Purchaser by J Limited prior to delivery.
- 5.3 If the premises or property to which the Goods are delivered are, at the time of delivery, closed, there is no answer, or if delivery is not accepted, J Limited will retain the Goods until the Purchaser has made alternative arrangements to accept delivery acceptable to J Limited

and J Limited will be entitled to make an additional charge (to include but not limited to costs of storage) to the Purchaser in respect of such.

- 5.4 All Goods supplied by J Limited are at the Purchaser's risk from the moment of delivery under this Clause 5.
- 5.5 Any claim by the Purchaser in respect of non-delivery of Goods ordered by the Purchaser must be made in writing to J Limited within 3 days of the date of delivery, which for the purposes of this Clause only, time shall be of the essence, upon receipt of which J Limited shall deal with the claim as it sees fit. Failure to comply with this time period will render any potential claim void.

## **6 Price and Terms of Payment**

- 6.1 The price for the Goods will be as shown in J Limited's current price and/or product list as amended from time to time and displayed on the Web-Portal. In the event that the price for the Goods changes between an order being placed by the Purchaser and the acceptance of that order by J Limited, J Limited will contact the Purchaser prior to processing the order and agree the price to be paid by the Purchaser.
- 6.2 All sums payable by the Purchaser pursuant to these Terms are (unless otherwise stated) exclusive of any Value Added Tax or any other applicable tax which the Purchaser will pay in addition on the due date for payment.
- 6.3 If Goods are being ordered from outside J Limited's country of residence, import duties, charges and other taxes may be incurred when the Goods reach their destination. The price of the Goods does not include these duties, charges and other taxes and the Purchaser hereby agrees and acknowledges that it is fully responsible and liable for the payment of the same. If the Purchaser is buying internationally, J Limited recommends that the Purchaser contacts the customs authorities and any other relevant authority or organisation for further details on costs and procedures. The Purchaser further agrees and acknowledges that it is the importer of record in respect of the Goods and shall ensure that the purchase of the Goods is in full compliance with all laws of the country into which the Goods are being imported. The Purchaser should be aware that Goods may be inspected on arrival at port for customs purposes and J Limited gives no guarantee that the packaging of the Goods will be free of signs of tampering.
- 6.4 Unless otherwise agreed in writing by J Limited, payment can only be made in the currency notified to the Purchaser by J Limited and only in advance by bank transfer or by credit or debit card via, if applicable, secure online payment. J Limited will not process or commence work relating to the Purchaser's order until such payment is made in full by the Purchaser to J Limited. In the case of payment by credit or debit card, details of the credit or debit card are to be provided to J Limited by the Purchaser and the Purchaser authorises J Limited to deduct from the credit or debit card those sums due to it in accordance with these Terms. J Limited will not pass on the Purchaser's credit or debit card details to any third party (save to the relevant payment processing agency) and the Purchaser undertakes that all details the Purchaser provides to J Limited for the purpose of ordering and purchasing the Goods are correct, that the credit or debit card the Purchaser is using belongs to the Purchaser and that there are sufficient funds to cover the cost of the Goods ordered.
- 6.5 The Purchaser confirms that it consents to the transfer of data held concerning the Purchaser by J Limited in accordance with clause 6.4 and to any purchaser or prospective purchaser of J Limited only.
- 6.6 All sums payable to J Limited under these Terms shall become due immediately upon termination of these Terms despite any provision to the contrary.
- 6.7 Following delivery of the Goods to the Purchaser in accordance with these Terms if for any reason there are outstanding sums due from the Purchaser to J Limited, such outstanding sums will be debited from the Purchaser's debit or credit card and J Limited will send to the Purchaser an invoice confirming payment in respect of such.

- 6.8 Should the Purchaser fail to pay any invoice, or any part thereof, submitted by J Limited, J Limited may, without prejudice to any other remedy available to it, charge the Purchaser interest (both before and after judgment) at the rate of 4% per annum above the base rate of Barclays Bank Plc from the due date until payment is made in full.
- 6.9 Ownership of the Goods supplied by J Limited or its agents shall not pass to the Purchaser until all sums due to J Limited have been paid in full and until such time the Purchaser shall keep the Goods in good repair and condition and properly protected and insured and designated in such a manner as clearly shows that the Goods remain the property of J Limited and shall not pledge or charge the Goods by way of security for any indebtedness of the Purchaser, and J Limited shall at any time be entitled to enter the Purchaser's property, or onto any property at which J Limited reasonably believes the Goods to be, to remove any Goods for which the Purchaser has not paid in full.
- 6.10 If the Purchaser sells the Goods on to its own customers in any form either as purchased from J Limited or forming a component part of a larger good and any amount of the purchase price payable to J Limited remains outstanding, the Purchaser shall account to J Limited for the proceeds of such a sale and hold the same on trust for J Limited until payment has been received in full by J Limited.
- 6.11 J Limited shall be entitled to cease or suspend the supply of any Goods to the Purchaser until such time as all outstanding fees and interest are paid in full and shall be entitled to exercise a lien over any items, equipment or documentation belonging to the Purchaser which may be in the possession of J Limited until all moneys due under these Terms have been paid.
- 6.12 Payment is not considered received from the Purchaser until J Limited receives notification of cleared funds representing the amount paid in its bank account or the bank account of its agent or nominee.
- 6.13 The Purchaser shall make all payments due under these Terms without any deduction whether by way of set-off counterclaim or otherwise unless the Purchaser has a valid court order requiring an amount equal to such deduction to be paid by J Limited to the Purchaser

## **7 Inspection**

- 7.1 Upon delivery of the Goods to the Purchaser, the Purchaser will inspect the Goods.
- 7.2 If during the inspection of the Goods by the Purchaser, the Purchaser discovers any damage to, shortage of or any fault in the specification of the Goods, the Purchaser must notify J Limited in writing of such damage (and any further damage discovered) or shortage or fault in specification within 5 days of delivery, which for the purpose of this Clause only, time shall be of the essence. Failure to comply with this time period will render any potential claim void.
- 7.3 Once notified in accordance with Clause 7.2 of the damage, shortage or fault in specification by the Purchaser, J Limited will:
- 7.3.1 As soon as reasonably practicable deliver to the Purchaser any shortage of the Goods provided that J Limited is satisfied that there is such a shortage of Goods; or
  - 7.3.2 Within 7 days of receiving such notification contact the Purchaser to discuss matters and, if appropriate, to make arrangements to inspect the damaged Goods and if satisfied that:
    - 7.3.2.1 the damage occurred prior to delivery of the Goods to the Purchaser; and
    - 7.3.2.2 the Goods concerned have not been worked upon or fitted
- J Limited will use reasonable endeavours to replace the damaged Goods as soon as practicable thereafter or if such is not possible, will provide the Purchaser with a credit note in respect of those Goods
- 7.3.3 Within 7 days of receiving such notification contact the Purchaser to discuss matters and, if appropriate, to make arrangements to inspect the Goods which are alleged

to have a fault in their specification and if satisfied that the Goods do not meet the specification detailed in the Purchaser's order (or any amended specification made in accordance with the provisions of Clause 2) J Limited will use reasonable endeavours to replace the Goods as soon as practicable thereafter or if such is not possible, will provide the Purchaser with a credit note in respect of those Goods

- 7.4 In the event J Limited accepts that the Goods are to be replaced or a credit note issued in accordance with this clause, J Limited is under no obligation to provide any replacement Goods or to issue a credit note until the Goods have been returned at the Purchaser's expense to J Limited in their original condition with all packaging and documentation
- 7.5 Notwithstanding the provisions of this clause, J Limited reserves the right to exercise its absolute discretion in respect of the replacement of Goods and the issue of any credit notes. Factors which may be taken into account in the exercise of such discretion include but are not limited to:
- 7.5.1 Any use or enjoyment that the Purchaser may have already had out of the Goods;
  - 7.5.2 Any characteristics of the Goods which may cause them to deteriorate or expire rapidly;
  - 7.5.3 The fact that the Goods consist of audio or video recordings or computer software and that the packaging has been opened;
  - 7.5.4 Any discounts that may have formed part of the purchase price of the Goods to reflect any lack of quality made known to the Purchaser at the time of purchase.

## **8 No Warranty**

J Limited gives no express warranty to the Purchaser in respect of the Goods to include (but not limited to) the materials, their performance or their durability. J Limited will where possible pass on such guarantees as manufacturers/suppliers provide and will use reasonable efforts to ensure that it notifies manufacturers/suppliers of any written complaints made by the Purchaser to it relating to any Goods supplied by them.

## **9 Liability**

- 9.1 All Goods supplied by J Limited are believed to be of satisfactory quality and fit for their purpose. The Purchaser must however satisfy itself that the Goods are of the correct specification and designed for the required purpose.
- 9.2 J Limited shall not be liable for any claim in relation to any defects in any Goods supplied nor for any works necessitated by fair wear and tear, wilful damage, negligence of the Purchaser, damage caused by any third party, or damage caused as a result of working on the Goods, and in any event the Purchaser should ensure that any work carried out on or with the Goods is carried out by individuals or professionals with appropriate skills, qualifications and experience.
- 9.3 In no event shall J Limited be liable to the Purchaser for an damages resulting from loss of data or use, corruption of data, loss of profits or business or any indirect or consequential loss or damage
- 9.4 Subject as expressly provided in these Terms and except where the Goods are supplied 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.
- 9.5 J Limited's liability to the Purchaser in respect of breach of contract or breach of duty or fault or negligence or otherwise whatsoever arising out of or in connection with these Terms will be limited to taking reasonable steps to correct any such breach at J Limited's expense and

Provided that the amount of its liability shall be limited in any event to the value of the Goods ordered by the Purchaser to include interest and costs save that this provision shall have no application to any liability in respect of death or personal injury or any other liability for which exclusion or restriction is permitted by law.

- 9.6 J Limited shall not be liable for the failure of the operation of the Web-Portal, its website or any connected or linked website and shall not be liable (including any liability for negligence) for the acts or omissions of telecommunications service providers or for failures of, or faults in their networks and equipment or any other failure or fault connected therewith.

## **10 Indemnity**

- 10.1 The Purchaser will indemnify J Limited against any damages, losses, costs, claims or expenses or any other sums incurred by it in respect of any loss J Limited suffers directly or any claim brought against it by any third party in relation to:-

- 10.1.1 Any loss, injury or damage wholly or partly caused by the Goods or their use;
- 10.1.2 Any loss, injury or damage in any way connected with the performance of these Terms;
- 10.1.3 Any costs, claims or expenses of any third party involved in recovering outstanding monies due from the Purchaser to J Limited

Provided that this Clause will not require the Purchaser to indemnify J Limited against any liability for the negligence of J Limited.

## **11 Termination**

- 11.1 The Purchaser may only terminate these Terms in accordance with the provisions of Clause 2.

- 11.2 J Limited shall be entitled without prejudice to the other rights and remedies available to it, either to terminate the whole or any part of these Terms or to suspend any future service or supply or terminate any Account of the Purchaser in any of the following events:

- 11.2.1 If any debt due and payable by the Purchaser to J Limited is unpaid on the due date of payment or if the Purchaser is in breach of the Purchaser's obligations under the Terms
- 11.2.2 The Purchaser 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 or an encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Purchaser or the Purchaser ceases or threatens to cease to carry on business or J Limited reasonably apprehends that such events are about to occur in relation to the Purchaser

- 11.3 The termination of the Terms howsoever arising shall be without prejudice to the rights and duties of either the Purchaser or J Limited accrued prior to termination.

- 11.4 Failure by J Limited to enforce or partially enforce any provision of the Terms will not be construed as a waiver of any of its rights under these Terms.

## **12 General**

- 12.1 All Content, drawings, descriptive matter, prices, specifications and advertising issued by J Limited and any descriptions or illustrations contained in J Limited's catalogues or brochures or displayed on the Web-Portal are issued or published for the sole purpose of giving an approximation of the good(s) and service(s) described and shall not be binding upon J

Limited. They do not form part of the Terms and subject to Clause 12.2 all patents, copyrights, design rights and all other rights in relation to such items shall remain vested in J Limited.

- 12.2 The Web-Portal, Content and Goods or part of them are or may be protected by patents, copyrights, design rights and other rights and any such rights or confidential information relating to the Web-Portal, Content and Goods remain with their legal owner solely and absolutely. The Purchaser shall not reproduce, copy, distribute, store or in any other fashion re-use material from the Web-Portal unless otherwise indicated on the Web-Portal or unless with the express prior written consent of J Limited.
- 12.3 J Limited may assign transfer licence or sub-contract all or any part of its rights or obligations under these Terms without the Purchaser's consent.
- 12.4 The Purchaser acknowledges that no data transmissions over the Internet can be guaranteed to be 100% secure or free from viruses or faults and J Limited cannot ensure or warrant the security of any information transmitted by it to the Purchaser and the Purchaser accepts such data transmission at its own risk
- 12.5 No part of the Web-Portal or the Content is intended to constitute advice or guarantee any specific result and should not be relied upon by the Purchaser when making decisions or taking action of any kind.
- 12.6 The Web-Portal may contain links to other websites which are not under the control of J Limited. The Purchaser acknowledges and agrees that J Limited does not imply any endorsement of such websites and has no responsibility or liability in connection with the Purchaser's use of the same and the Purchaser accesses and uses such websites at its own risk.
- 12.7 These Terms are personal to the Purchaser who may not assign transfer licence or sub-contract all or any of its rights or obligations under these Terms without J Limited's prior written consent.
- 12.8 Any variation to these Terms shall have no effect unless expressly agreed in writing between the parties
- 12.9 J Limited shall not be liable for any failure to perform its obligations under these Terms due to unforeseen circumstances or circumstances beyond its control including without limitation labour disturbances (including strikes and lock-out, slowdowns, picketing or boycotts), governmental action, adverse weather conditions, flood or fire.
- 12.10.1 All notices under this Agreement shall be in writing and shall be deemed to have been served on:
  - 12.10.1.1 the date of personal delivery if before 5pm or if after that time, the following day;
  - 12.10.1.2 the second business day after mailing by first class post;
  - 12.10.1.3 the second business day after sending by confirmed facsimile; or
  - 12.10.1.4 the second business day after sending by email.
- 12.10.2 Notices to J Limited shall be addressed to the attention of its Managing Director, with a copy to its Board to J Limited's registered office as set out above or to such address as notified by J Limited to the Purchaser in accordance with this clause.
- 12.10.3 Notices to the Purchaser shall be addressed to the Purchaser's registered office or principal place of business or last known place of address in accordance with this clause
- 12.11 J Limited reserves the right in its absolute discretion to change amend alter or otherwise deal with the Web-Portal or its Content as it sees fit.
- 12.12 These Terms shall operate on the footing that if any of the provisions either in part or in whole is held by a Court or any other competent authority not to be valid or enforceable, the validity and enforceability of the remaining provisions of the Terms and the remainder of the affected provision shall continue to apply.