

1. The following terms and conditions are applicable except as otherwise specifically agreed in writing by Tyrell Content Creation Tools Ireland Limited, hereinafter referred to as 'The Company'.
2. ENTIRE AGREEMENT
- 2.1 The terms and conditions set out herein comprise the entire Agreement between the parties for the goods and supercedes all (if any) previous agreements between the parties and may not be modified unless otherwise agreed in writing by the Company.
- 2.2 The Customer agrees that it purchases the goods without relying upon any representation or warranty written or oral whether contained in any catalogues, displays, price lists or other advertising matter or other provision herein. Accordingly all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
3. OWNERSHIP AND RISK
- 3.1 Title and ownership of the goods will pass to the Customer only upon receipt of payment in full by the Company (being cleared funds including any interest payable under Clauses 4.7 and 7.4 below) for the goods and/or services of the Company to the Customer.
- 3.2 In the event that the Customer shall be in breach of any of the terms of this Agreement and so long as title to and ownership of the goods remains with the Company, the Company its employees or agents shall be entitled immediately and without notice to enter upon any land, buildings or vehicles of the Customer, its employees or agents to repossess the goods.
- 3.3 The Company, its employees or agents shall be entitled immediately and without notice to enter upon any land, buildings or vehicles of the Customer, its employees or agents to repossess the goods if the Customer shall suffer any distress or execution to be levied upon its goods or if the Customer offers to make any arrangement with its creditors or if being an individual or partnership commits an act of bankruptcy or if any petition in bankruptcy is presented against it or if the customer is unable to pay its debts as and when they fall due or if being a limited company any resolution or petition to wind up the Customer (other than for the purposes of amalgamation or reconstruction without insolvency) shall be passed or presented or if an examiner, receiver, administrator, administrative receiver or manager shall be appointed over the whole or any part of the Customer's business or assets or on the happening of any event or default which leads the Company to consider that its title and ownership of the goods or (or if the goods have been resold) their proceeds of sale may be adversely affected.
- 3.4 Goods delivered by the Company shall be held by the Customer as the bailee of the Company until payment has been made in full, but shall be at the Customer's risk immediately on delivery to the Customer or as directed by the Customer and the Customer should therefore insure the goods accordingly, but title and ownership of the goods shall remain with the Company or if the goods have been purchased for resale until the Customer resells the goods as provided herein.
- 3.5 If the goods are purchased for resale then before payment in full is made the Customer shall have the power to resell the goods (as principal towards sub-purchaser) but as agent as between Customer and Company and the Company shall be beneficially entitled to and the Customer shall be under fiduciary duty to account to the Company for the proceeds of the sale and any claim thereto and all proceeds of the sale shall be kept by the Customer in a separate bank account for and on behalf of the Company.
- 3.6 If the goods are purchased for resale and the Customer not having made payment in full for the goods mixes them with other goods or uses them in the manufacture of other goods, the legal and/or beneficial title to the other goods or products shall automatically be vested in the Company as security for the payment of the goods hereby purchased and accordingly Clause 3.5 shall as far as appropriate apply to such other goods or products mixed with the Company's goods.
4. DELIVERY
- 4.1 The Company shall deliver the goods to the Customer as soon as is practical after the Customers Order.
- 4.2 Time for delivery shall not be of the essence and the Company shall not be liable for loss or damage sustained by reason of any delay in delivery or for any consequential loss howsoever arising.
- 4.3 If on delivery there shall be any shortage in the goods ordered this must be notified to the Company in writing within three days of the date of delivery.
- 4.4 In the event of an error in price or non-delivery this must be notified to the Company in writing within ten days of receipt of the invoice.
- 4.5 Delivery costs will be charged on all orders. If a customer requires a different means of transport from that normally used by the Company then the cost of that means of transport will be charged to the Customer.
- 4.6 In the event that the Customer shall fail for any reason to take delivery of the goods then the Company shall be entitled to charge the Customer for (a) the storage of the goods and (b) interest upon both such storage charges and the value of the goods being purchased at the rate of 3% per month both of which shall be calculated from the date that the Customer fails to take delivery of the goods until such time as delivery is made.
5. DAMAGE IN TRANSIT
- 5.1 In the event of goods arriving damaged or incomplete it is necessary for the goods to be signed for as damaged or incomplete and the carrier shall be informed immediately and any claim arising must be made to the Company in writing within three days of delivery.
- 5.2 Complaints by the Customer in respect of the goods found to be damaged shall not be grounds for the Customer to withhold payment of monies due to the Company and shall not give any right to set off (equitable or otherwise) or lien.
- 5.3 No liability is accepted for damage, loss or delay in transit whether delivery is to the customer's premises or as directed by the Customer.
6. PASSING OF RISK AND TITLE
- 6.1 Risk in the goods shall pass to the Customer immediately upon delivery of the goods and until the goods are paid for in full the Customer shall insure the goods against all usual risks (including but without limitation theft and accidental damage).
- 6.2 Subject to Clause 2 and Clause 6.1 the Company reserves the right to dispose of the goods at any time prior to the Customer having made payment in full (including any interest payable under Clause 4.7 above and Clause 7.4 below) in accordance with the terms herein and if such payment is overdue in whole or in part the Company its employees or agents may (without prejudice to any of its other rights) recover or resell the goods and may immediately and without notice enter upon any land, buildings or vehicles of the Customer, its employees or agents for that purpose.
- 6.3 Until payment in full is received for the goods the relationship of the Customer to the Company shall be fiduciary in respect of the goods and any goods in which they are incorporated or used as herein before referred to and more particularly if the same are sold by the Customer the Company shall have the right to trace the proceeds thereof according to the principal of Re Halletts Estate and a like right for the Company shall apply where the Customer uses the products in any way so as to be entitled to a payment from a third party.
- 6.4 Until such time as the Customer becomes the owner of the goods they will store them on their premises separately from their own goods or those of any other person and in a manner which makes them readily identifiable as the goods of the Company.
7. PAYMENT
- 7.1 All prices are subject to alteration without notice and orders are accepted on the understanding that the Company's current prices applicable on the date of delivery will be charged in addition to Value Added Tax where applicable.
- 7.2 The Company may demand a deposit with an order, the size of which may vary according to the credit status of the Customer and the nature of the equipment being purchased.
- 7.3 Unless previously agreed in writing the Customer shall make payment in full 30 days from invoice. Such payment shall be net of any deposit previously paid with order
- 7.4 In the event of non-payment in accordance with Clause 7.3 the Customer shall pay to the Company interest at the rate of 3% per month on the amount due until the date of the payment.
- 7.5 Where the Company has imported goods to fulfill its obligations to the Customer the Company reserves the right to amend its prices to cover any alteration in Exchange rates of the euro and the currency of the exporting company as between the rate at which the euro price was calculated and the rate at the time of the customer's payment.
8. CANCELLATION BY THE COMPANY OR CUSTOMER

- 8.1 The Company shall be entitled to postpone delivery or cancel unfulfilled orders in whole or in part if by reason of an Act of God, force majeure, fire, industrial action, government action, default by suppliers or any other circumstances whatsoever whether or not eiusdem generis with the foregoing where the Company reasonably considers it is unable to fulfill or is hindered or is prevented from performing its obligations and such postponement or cancellation shall be without prejudice to the right of the Company to recover payment for goods supplied in part performance of the order and will not give rise to any claim by the Customer for any loss, damage or expense resulting from or arising consequently upon such postponement or cancellation.
- 8.2 Any order once placed by a Customer cannot be cancelled except with the written agreement of the Company and upon terms which indemnify the Company against all loss arising which shall include obligations to suppliers in respect of the goods ordered by the Company to meet the customer's requirements.
- 8.3 Changes at the Customer's request in the specification of the goods to be supplied can only be made with the Company's written agreement and will render the quoted price subject to amendment.

9 RESTRICTION OF LIABILITY

- 9.1 The Customer should note that the purpose of these terms and conditions is to reduce or extinguish the Company's liability to the Customer, to reduce the Company's costs and thereby the costs of the goods to the Customer. Accordingly it is recommended that the Customer insure itself against any circumstances arising whereby they would claim against the Company but for these terms and conditions.
- 9.2 The Company shall not be liable to compensate the Customer for any third party claims occasioned by delay in completing the order.
- 9.3 The Company does not warrant that the goods are fit for the Customer's intended purpose. The goods are sold to the Customer on the basis that the Customer will test them in actual use and determine for themselves their acceptability to their intended use.
- 9.4 Subject to Clause 9.5 hereof the Company warrants that the goods are free from defect at the time of delivery but any obligation under this warranty is limited to replacement of goods (in whole or in part) or a refund of their cost at the choice of the Company.
- 9.5 The Company warrant that where the goods consists in whole or in part of Software and/or Firmware that such Software and/or Firmware when properly used will provide the facilities and functions and perform substantially as described in the documentation therewith. The Company does not warrant that the operation of the Software and /or Firmware will be uninterrupted or free from error. The Company's obligation under this warranty shall be limited to either the Company at its own expense using all reasonable endeavours to rectify any non-conformance (by way of patch, work around, correction or otherwise) within a reasonable time or if the Company is of the opinion that such non-conformance can not be rectified or refund of the purchase price of the faulty Software/Firmware.
- 9.6 The Customer shall ensure that it, its employees or agents or whosoever is competent to use the goods is informed as necessary as to any defects latent or otherwise in respect thereof. Under no circumstances shall the Company be liable for any loss, damage, and expenses howsoever arising out of the use of the goods.
- 9.7 Except and in so far as provided for herein the Company shall not be liable for any injury, loss or damage howsoever arising sustained by the Customer, its employees, agents or customers by reason of (a) any misrepresentation by the Company (b) any breach of the terms of this contract whether express or implied (c) any defect of the goods whether or not such defect constitutes a breach of the contract and (d) any negligence on the part of the Company its employees or agents or suppliers.
- 9.8 However, if and to the extent that any of these items or conditions are rendered void or unenforceable or of no effect by the provisions of any national or international legislation thereto then the provision concerned shall have effect as if expressly limited in application so that no such repugnancy to such legislation shall arise.

10 FORCE MAJEURE

- 10.1 Neither party shall be liable for any failure to perform any of its obligations hereunder if the performance of such obligations has been interfered with, hindered, delayed or prevented by any circumstances, which are not reasonably within the control of that party.

11 GENERAL

- 11.1 Where the Company has been requested to provide a quotation for the supply of goods such quote is based on the cost of the goods at the date thereof. If between that date

and the date on which the goods are ordered variation either by rise or fall occur in these costs then the price quoted may be amended to provide for these variations.

- 11.2 Without prejudice to the generality of Clause 11.1 hereof all quotations and acceptances thereof and orders are subject to the Company's terms and conditions herein and no variation of or addition to such terms and conditions will be acceptable unless the same are made in writing (annexed hereto) and expressly agreed in writing by the Company.

- 11.3 If the goods are resold and the Customer has not received the proceeds of any such sale, they will if called upon to do so by the Company, and within seven days thereafter, assign to the Company all rights against the person or persons to whom they supplied any produce or chattel made from or with the Company's goods. This Agreement shall be construed under and in accordance with the laws of Ireland and the parties hereby submit to the exclusive jurisdiction of the Irish Courts.