

TERMS AND CONDITIONS FOR THE USE OF
FINE-FOCUS LTD RIGHTS-PROTECTED IMAGES

1. ESSENTIAL INFORMATION PLEASE READ

YOU SHOULD CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS. YOUR PURCHASE OR USE OF THIS PRODUCT SIGNIFIES YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS.

2. GENERAL

- (1) All contracts for the supply of goods and/or services by fine-focus to any person, firm or company ("the Client") shall be subject to these terms and conditions which shall apply to the exclusion of any terms and conditions of the Client unless expressly agreed in writing by a duly authorised representative of fine-focus.
- (2) No variation or amendment of these terms and conditions shall be made unless expressly agreed in writing by a duly authorised representative of fine-focus.
- (3) Unless previously withdrawn a quotation of fine-focus is open for a period of 30 days after the date of the quotation.
- (4) A contract shall be created only when fine-focus through a duly authorised representative has accepted either in writing or orally an offer from the Client to purchase goods and/or to receive services ("the Project") such acceptance shall thereupon create a contract to be governed by these terms and conditions in accordance with the provisions of sub-clause (1) hereof.

3. PRICES

- (1) All prices are as quoted in writing
- (2) All prices are fully inclusive
- (3) fine-focus reserves the right at its sole discretion to increase any price if the Client requests fine-focus to vary, modify or amend the Project or in the event of any rise or fall in the cost of materials, labour, services, interest.

4. PAYMENT

- (1) Unless otherwise agreed in writing payment shall be made to fine-focus 28 days after the submission by fine-focus of the invoice to the Client. Unless otherwise agreed in writing payments shall be made in the currency of Sterling.
- (2) Unless otherwise agreed in writing payment terms are 50% in advance and 50% to be paid within 28 days of completion. Cheques to be made payable to fine-focus ltd.
- (3) The Client shall pay interest on overdue accounts or so much thereof as shall be overdue at the rate of 4% over fine-focus's bankers' base lending rate from time to time in force until the date of payment.
- (4) No rights are granted until our invoice is paid in full.

5. EXCLUSION OF LIABILITY

- (1) Save as expressly set out in Clause 4(3) above, fine-focus shall not in any circumstances be under any liability whatsoever to the Client whether in contract, tort or otherwise for any defect in, failure of or unsuitability of any services supplied or advice given pursuant to the Project or for any consequential loss (including loss of profit, use or goodwill or similar financial loss), damage, claim or any other liability (howsoever caused) arising out of or in the course of or in connection with the Project, whether or not due to the negligence of fine-focus or its servants or agents. All conditions, warranties or other terms whether express or implied, statutory or otherwise, inconsistent with the provisions of this clause are expressly excluded provided that where Section 2 of the Unfair Contract Terms Act 1977 applies to the Project nothing herein contained shall exclude or restrict any liability of fine-focus for death or personal injury resulting from the negligence of fine-focus or its servants or agents.
- (2) The fees quoted in the quotation or proposal have been made on the basis that the Client shall bear the responsibility to cover by insurance, if the Client so wishes, the risks which fall on the Client as a result of the incorporation of this clause in the contract.

6. RISK

Where fine-focus supplies any sources or items to the Client (whether or not the ultimate intention is that the goods or items be returned to fine-focus) the risk in such goods or items will pass on delivery to the Client.

7. TITLE

- (1) Notwithstanding delivery and passing of risk in any goods or items supplied by fine-focus to the Client, fine-focus shall remain the owner of the goods or items until the Client has paid in full all sums due to fine-focus.
- (2) Until ownership of the goods or items passes to the Client, the Client shall, while the goods or items remain on its premises or under its control, set them aside separately from other goods or items in its possession and shall identify the goods as the property of fine-focus.
- (3) Until ownership of the goods or items passes to the Client, fine-focus shall be entitled to require the Client to re-deliver the goods or items to fine-focus and the Client shall be bound to do so immediately upon such requirement being made.
- (4) Until ownership of the goods or items passes to the Client, fine-focus or any person nominated by it shall be entitled to enter onto the Client's premises from time to time for the purpose of:
- (a) ensuring that the Client has complied with the provisions of this Clause; and (b) re-possessing the goods or items.

8. COPYRIGHT

Unless otherwise agreed in writing, copyright (other than a design right in respect of an original design) in any photographs, plans, drawings, specification or other documents prepared by fine-focus connection with or in the course of the Project shall belong to fine-focus.

9. SUSPENSION

In the event of the performance of any obligation accepted by fine-focus being prevented, delayed or in any way interfered with by either: -

- (i) rules, regulations, requisitions or orders of the Government or Local Authority, war, riot, civil disturbance, strike, industrial action short of a strike, lock out, accident, fire or by any other cause beyond its control; or
- (ii) shortage of labour or materials or non-delivery by fine-focus's suppliers or damage to or destruction of the whole or part of any goods or items to be supplied.

fine-focus may at its option suspend performance or cancel its obligation under the contract without liability for any damage or loss of any kind whatsoever resulting there from such suspension or cancellation being without prejudice to fine-focus's right to recover all sums owing to it in respect of goods or items delivered at the date thereof.

10. INSOLVENCY OF THE CLIENT

If any distress or execution shall be levied upon any of the Client's assets or if the Client shall make or offer to make any arrangement or composition with creditors or commit any act of bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against the Client or if any resolution or petition to wind up the Client shall be passed or presented (otherwise than for the purpose of a bona fide reconstruction or amalgamation) or if a receiver, administrator or manager be appointed over any part of the Client's undertaking or assets, fine-focus shall have the right to determine the contract.

11. PROPER LAW

The proper law of the Project and of the above terms and conditions shall be the laws of England.

12. ARBITRATION

If at any time any question, dispute or difference whatsoever shall arise between the Client and fine-focus upon, in relation to, or in connection with the contract, either may give the other notice in writing of the existence of such question, dispute, or difference, and the same shall be referred to the arbitration of a person to be mutually agreed upon or failing agreement within 14 days of receipt of such notice, of some person appointed by the President of the Law Society for the time being. The submission shall be deemed to be a submission to arbitration within the meaning of the Arbitration Acts, 1950-1979 or any statutory modification or re-enactment thereof.

LICENSE:

1. LICENSE

a) RIGHTS PROTECTED IMAGES (RP):

RP Images means that fine-focus attempts to avoid image conflict between users in the same Industry for the same usage within a specific time period. Rights Protected Images include exterior or cover images in advertising, brochures and books, but do not include interior images, audio-visual use, one-sheet direct mail pieces or internet use, unless specifically negotiated.

b) LIMITED USE GRANTED:

Permission to utilize image(s) is only granted for the use specified on the face of the invoice and for no other purpose, including promotional and/or electronic usage. Permission is only effective after you pay the invoice and no rights are granted by your possession of the image(s) or the invoice. Uses are granted for the UK for a maximum of one year, unless otherwise specified. All rights not granted on the invoice are specifically reserved for fine-focus's use and future disposition without any limitations whatsoever. You agree to provide us with a certified statement setting forth the number of sales, sublicenses, adaptations, transactions and uses of our images in any publication on a semi-annual basis (June 30th and December 30th).

c) ADDITIONAL LICENSES AVAILABLE:

If you require additional rights, or a prohibition or limitation on other uses of an image you have selected, you can request and pay for an additional license.

d) RE-USE:

You assume responsibility to contact fine-focus 30 days prior to the expiration of usage rights in order to request and negotiate for rights to re-use the image for the same usage as outlined in the invoice.

e) RESPONSIBILITY FOR USE:

You agree not to use the image(s) in any way that could be considered defamatory, pornographic or fraudulent, either by making physical changes to it, or in the juxtaposition to accompanying text.

f) UNAUTHORIZED USE:

You agree not to make, authorize or permit any use of an image or its derivative (use of an image as source to create another image) except as authorised by the invoice. In the event you utilize a image for any use other than that indicated on the invoice, including but not limited to the number of uses, the publication utilized, or the size of reproduction, fine-focus agrees to forego its right to sue for copyright infringement if you pay, as liquidated damages, a sum equal of three (3) times the maximum price we would have charged for such use, within ten (10) days of our billing such fee. If you fail to make such payment in (10) days, this liquidated damage provision shall be void and we shall have the right to sue for copyright infringement and breach of contract.

g) INDEMNIFICATION:

You agree to indemnify and hold fine-focus harmless against all claims arising out of the use of any image where we have not specified the existence of a release in writing, and for the defamatory use of an image in any manner or context. In any event, fine-focus's liability for the particular image used, if our liability will be limited to the sum paid in accordance with our invoice, specifies the use of the image for an improper use. If our invoice was not paid prior to using an image, fine-focus shall be absolved from any and all liability and held harmless by you from all claims arising out of any usage since such use was without proper authority.

h) RETURN OF IMAGES AFTER INVOICING:

Images must be returned directly to fine-focus by Royal Mail Special Delivery or Courier, prepaid and fully insured within three (3) months after the invoice date. After the expiration of this three month period, if you fail to return the images, the image(s) will be deemed lost and the liquidated damages provisions of Paragraph 9 shall govern.

i) LIQUIDATED DAMAGES FOR LOST OR DAMAGED IMAGES:

You agree that liquidated value for an original image is nine hundred and fifty pounds (£950); the liquidated value for a duplicate image is One hundred and sixty pounds (£160). You do not obtain any ownership rights to an image by payment of a loss fee terms in this Paragraph.

j) ASSIGNABILITY:

You may not assign or transfer to anyone else the usage rights we grant you, without our prior written consent.

k) PROJECT SAMPLES:

In the event that an Image is reproduced, as a condition of use, you agree to send at your own expense to fine-focus two (2) free samples containing a reproduction of the Image within 30 days of use. Failure to supply a copy of the project shall be considered to be material breach of this Agreement.

l) COPYRIGHT PROTECTION:

All Images used editorially or on a CD-ROM or on the Internet or Intranet, must bear the credit line "© year, fine-focus" or as otherwise indicated by fine-focus. You agree to provide copyright protection to all Images and such copyright shall be immediately assigned to fine-focus, or its designee upon request, and without charge. You agree to pay a reasonable liquidated damage amount of triple the invoice fee if the credit is improper or missing.

m) WAIVER:

Terms may not be waived orally by any fine-focus employee and any purported waiver or change must be in writing and signed by an officer of fine-focus ltd. If we waive any specific part of this contract, such waiver will not affect any other part. Only the terms of this contract will be binding on fine-focus. This Agreement supercedes any Terms contained in your Purchase Order.

n) CANCELLATION POLICY:

If you decide not to use the Images, you must advise fine-focus in writing within two weeks of the invoice date to receive a full refund. After this two-week period has expired, up to 60 days from the invoice date there will be a 50% cancellation fee. After 60 days from the date of the invoice, the invoice cannot be canceled and full payment will be due.