



## LUXFER GRAPHIC ARTS, a division of MAGNESIUM ELEKTRON LIMITED ("Seller")

### Terms and Conditions of Supply ("Conditions")

THESE CONDITIONS APPLY TO ANY PURCHASE ORDER SUBMITTED BY A BUYER ("ORDER") AND FORM PART OF THE CONTRACT FOR THE SUPPLY OF PRODUCTS (AS DEFINED BELOW) BETWEEN THE SELLER AND THE ORIGINAL PURCHASER OF THE PRODUCTS NAMED IN THE ORDER ("BUYER"). ANY PROPOSAL OR DOCUMENT FROM BUYER THAT INCLUDES DIFFERENT OR ADDITIONAL TERMS THAT SEEK TO VARY, MODIFY OR ADD TO ANY OF THE CONDITIONS IS HEREBY OBJECTED TO AND REJECTED.

**1. DEFINITIONS.** "Products" as used herein means the products listed in the Seller's proposal and quotation.

**2. CONTRACT.** Each order for Products by Buyer (whether placed by electronic communication, hard copy, or otherwise) shall be deemed to be an offer by the Buyer to purchase those Products subject to these Conditions and to the exclusion of any terms the Buyer references or seeks to impose or which are implied by trade, custom, or course of dealing, which such terms Seller hereby rejects. Seller's acceptance of any Order containing terms additional to or different from the terms contained in these Conditions or containing modifications of the terms contained these Conditions shall not be deemed assent to those additional, different, or modified terms. Buyer's receipt of these Conditions without prompt written objection thereto, or Buyer's acceptance of all or part of the Products ordered from Seller, shall constitute assent by Buyer to these Conditions. Unless previously withdrawn or noted otherwise, any Seller quotation expires twenty-one (21) days after its date. No binding contract shall be created by the acceptance on the part of Buyer of a quotation made by Seller until written acceptance of Buyer's Order is issued by Seller. Buyer must ensure that the terms of its Order are accurate. Seller's proposal and/or quotation, as applicable, Buyer's Order for Products (excluding any terms excluded above), Seller's order acceptance, and these Conditions (collectively, the "Contract") constitute the entire contract between the parties. Buyer acknowledges that it has not relied on any statements, promises, or representations made or given by or on behalf of the Seller that are not set out in the Contract.

**3. CANCELLATION.** No binding Contract may be canceled by Buyer without cause, except with Seller's written consent. As used herein, "cause" shall mean a material breach of Seller's duties and obligations hereunder and Seller's failure to cure such breach after Buyer notifies Seller of such breach and affords Seller a

reasonable time to cure the same. Should Buyer cancel a Contract without cause, Buyer shall indemnify, defend, and hold Seller harmless from and against any claims, losses, liabilities, costs, expenses, and fees (including, without limitation, reasonable attorneys' fees) incurred by Seller as a result of the cancellation, including loss of anticipatory profits and liability for commitments made by Seller relating to this Contract. In such event, Buyer shall purchase any existing inventory and work in process that Seller has in its possession to fulfill Seller's existing Contract(s) for Buyer at the time of cancellation. Seller may terminate this Contract at any time by giving Buyer written notice if the Buyer commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy the breach within thirty (30) days of being notified in writing to do so.

**4. LIMITED WARRANTY.** **4.1** Unless otherwise agreed by the Seller in writing in its proposal and/or quotation, Seller warrants to Buyer that the Products, when shipped by Seller, will meet Seller's then-current applicable specifications or such other specifications as may be agreed between the parties and set out in, or included with, the Seller's proposal and/or quotation ("Limited Warranty"). The Limited Warranty is void and of no effect if Buyer did not purchase the Products for its own use and did not purchase the Products from Seller or an authorized dealer of Seller within such dealer's authorized territory. Buyer shall be solely responsible for determining the suitability for use of the Products and Seller shall in no event be liable in this respect. The Limited Warranty does not cover damage caused by the failure to follow written instructions provided by Seller with respect to the Products; damage or breakage caused by unauthorized service, installation, alteration, modification, assembly or disassembly; negligence; normal wear and tear; or misuse. Seller's obligations and liabilities hereunder shall not be enforceable until receipt of payment in full by Buyer for the Products and title to the Products has passed pursuant to the provisions hereof.

**4.2** Seller shall, at its own expense, repair or replace any Products it determines do not conform to the Limited Warranty, provided Buyer notifies Seller of such failure to conform, in writing, within the applicable time period set forth below in Clause 7 entitled "Claims." Notwithstanding the foregoing, where the shelf life of photo engraving coatings [defined as one (1) year from coating date] may soon expire, Seller will provide Buyer the opportunity to return the Product for scrap value or re-coating at Buyer's expense. THE LIMITED WARRANTY AND ASSOCIATED OBLIGATIONS ARE IN LIEU OF ALL OTHER OBLIGATIONS AND LIABILITY OF SELLER IN RESPECT TO THIS CONTRACT OR THE PRODUCTS, INCLUDING ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR PARTICULAR APPLICATIONS OR PURPOSES, OR WARRANTIES OR CONDITIONS IMPLIED BY SECTIONS 13-15 OF THE SALE OF GOODS ACT 1979, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. Any repaired or replacement Products provided hereunder are warranted to conform to the Limited Warranty when shipped by Seller.

**5. BUYER'S OBLIGATIONS.** Buyer acknowledges and agrees that it is responsible for the selection, unloading, handling, storage, use, and disposal of Products in accordance with applicable law and represents and covenants that it will do so. Buyer represents that it has used its own independent skill and expertise in connection with the selection and use of the Products, and that it possesses the skill and expertise necessary to comply with its obligations hereunder. Buyer further warrants, represents, covenants, and agrees that it (and any of its directors, officers, agents, affiliates and employees): (i) has not and will not do or omit to do any act or thing in relation to the purchase, resale or distribution of Products from Seller which would be illegal under the U.K. Bribery Act of 2010 or the U.S. Corrupt Practices Act or any applicable laws or regulations, and specifically has not requested, accepted or agreed to receive any bribe or other unlawful payment, gift or advantage in respect of such purchase and will notify Seller if it is offered the same; (ii) has not and will not do or omit to do any act or thing in relation to the purchase, resale, or distribution of Products from Seller that would be illegal under applicable export regulations; and (iii) shall not re-sell or offer the Products (whether on their own or in combination with other materials or substances) for sale in any country to which it would at the relevant time be illegal to export any such Products, or to any person if the Buyer knows or should have reason to believe that such person intends to resell the same in any such country. Buyer shall indemnify, defend, and hold Seller harmless from and against any claims, losses, liabilities, costs, expenses, and fees (including, without limitation, reasonable attorneys' fees) arising out of a breach of Buyer's

obligations under this Clause 5, and/or Buyer's discharge, storage, handling, and/or use of any Product purchased hereunder.

**6. SELLER'S LIABILITY.** BUYER'S REMEDIES WITH RESPECT TO ANY CLAIM ARISING OUT OF ANY ORDER OR SELLER'S PERFORMANCE THEREOF, INCLUDING, WITHOUT LIMITATION, ANY CLAIM ARISING OUT OF ANY RECALL, DEFECT, ALLEGED DEFECT, OR FAILURE OF ANY PRODUCTS FURNISHED BY SELLER, SHALL BE LIMITED EXCLUSIVELY TO THE REPAIR OR REPLACEMENT OF SUCH PRODUCTS OR THE REPAYMENT OF THE PRICE PAID THEREFOR. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE TO BUYER OR ANY OTHER PERSON OR ENTITY FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, INJURIES TO PERSONS OR PROPERTY, LOSS OF USE OF PROPERTY, OR DAMAGES FOR WHICH BUYER MAY BE LIABLE TO OTHER PERSONS OR ENTITIES, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND WHETHER THE CLAIM IS FOR BREACH OR REPUDIATION OF CONTRACT, BREACH OF WARRANTY, TORT, NEGLIGENCE OR OTHERWISE. SELLER'S MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THE CONTRACT AND THE PRODUCTS FURNISHED HEREUNDER SHALL NOT EXCEED THE PRICE PAID BY BUYER TO SELLER FOR THE PRODUCTS GIVING RISE TO THE CLAIM OF LIABILITY. BUYER ACKNOWLEDGES AND AGREES THAT THE LIMITATIONS OF LIABILITY SET FORTH HEREIN ARE MATERIAL AND ESSENTIAL TERMS OF THE CONTRACT AND SHALL BE ENFORCED AND INTERPRETED TO THE FULLEST EXTENT OF APPLICABLE LAW. i the foregoing, the liability of the parties shall not be limited in any way in respect of the following: (i) death or personal injury caused by negligence; (ii) fraud or fraudulent misrepresentation; or (iii) any other losses which cannot be excluded or limited by applicable law.

**7. CLAIMS.** Within one hundred and eighty days (180) days [for Products used for photo engraving applications] or sixty (60) days [for all other Products] after tender of delivery to Buyer of any shipment and before any portion of the Products (except for reasonable test and inspection quantities) has been changed from its original condition, Buyer shall inform Seller in writing if any Products are believed to be defective or otherwise believed not to conform with Buyer's Order. The allegedly defective Products shall be preserved intact as received for the period from delivery until expiration of the 180-day or 60-day period for notification of the claim by Buyer. Any

claims not made within such notification period shall be waived, and Buyer shall be deemed to have accepted Seller's shipment of Products. To submit such a claim, Buyer should contact Customer Service at the following email: [lga.uk.sales@luxfer.com](mailto:lga.uk.sales@luxfer.com). All returns must be accompanied by a proof of purchase. Seller reserves the right to require a Product be returned for inspection prior to deciding whether warranty coverage applies or to be given access to such Product at Buyer's place of business to investigate the claim. If Buyer does not comply with all of these requirements, Seller shall have no liability with respect to any defect, failure, or other breach.

**8. TITLE AND RISK OF LOSS.** Subject to the provisions of Clause 13 entitled "Buyer's Credit," title to the Products shall pass to Buyer when delivery of the Products is accepted by Buyer at the place of delivery set forth in the Order. Whether or not title has passed to Buyer, Buyer shall bear the risk of loss of Products at all times after the Products are tendered to the carrier for delivery, and Seller shall not be liable to Buyer for any loss or damages to Products sustained thereafter.

**9. DELIVERIES.** Incoterms (based on ICC 2020 standards) will apply to the delivery of the Products. Reference to the Incoterms agreed by the parties for each Order will be included in the Contract. No delivery of Products shall be deemed late if shipment is made within a reasonable time after Seller's specified date of delivery. Seller's failure to deliver the full quantity of Products ordered shall not relieve Buyer from the obligation to accept and pay for the Products actually delivered in accordance with the terms hereof. Seller shall not be liable to Buyer for any damages claimed or other liabilities resulting from delay in delivery of Products after the date of delivery specified herein. If delivery is to be made in installments and if Buyer shall fail during any month or any other shipment period specified herein to require a delivery of the prorated maximum quantity, Seller may, at Seller's option, cancel the Contract and invoice the difference between the amount required by Buyer to be delivered and said prorated maximum quantity. If shortages should occur in Seller's supply of specific items, Seller may prorate its deliveries. The weights, volumes, sizes, and fares set forth in this Contract shall govern in the event of a dispute unless proved erroneous. Products varying not more than five percent (5%) in weight, quantity, size, width, thickness, or length shall be deemed to be in compliance with this Contract.

**10. FORCE MAJEURE.** Neither party shall be liable for lateness or failure in performance, including, without limitation, delivering or requesting delivery of Products due wholly or partly to any event either not wholly or exclusively within its control or which it could not with reasonable diligence have avoided in any such circumstances. Seller may, without liability, terminate all

or any part of this Contract or suspend and thereafter resume delivery of all or part of the undelivered Products, and Buyer shall accept such delivery, provided that if such delay in delivery exceeds thirty (30) days, Buyer may deliver to Seller by registered mail a demand for the delivery of the delayed Products. If Seller does not ship the delayed Products within ten (10) days after receipt of the demand, this Contract shall then terminate as to such Products. Labor controversies and adjustment therefore shall not be considered as wholly and exclusively within a party's control.

**11. PRICE; TAXES.** Prices shall be as set out in the Contract ("Price"). Prices shall be exclusive of taxes, packaging, delivery, insurance, or other fees, unless an alternative basis is agreed by the Seller and set forth in writing in the Contract. Any tax which Seller may be required to pay or collect through assessment or otherwise, under any existing or future law with respect to the sale, purchase, delivery, transportation, storage, processing, use or consumption of the Products, including, without limitation, taxes upon or measured by receipt from sales, such as valued added tax under the Value Added Taxes Act 1992 ("VAT") [but excluding taxes based upon Seller's income], shall be paid by Buyer and become part of the Price payable by Buyer. Buyer shall pay any applicable VAT to Seller upon receipt of a valid VAT invoice.

**12. PAYMENT.** Unless otherwise agreed by the parties in writing, invoices issued by Seller for Products purchased pursuant hereto shall be paid in cleared funds by the invoice due date marked on the invoice, notwithstanding that delivery may not have taken place or title to the Products has not passed to Buyer. The time of payment for Products shall be of the essence. All sums shall be payable in legal tender of the United Kingdom or as other currency agreed to by the Seller in writing. Any past due amounts owing to Seller shall accrue interest at the lesser of one and one-half percent (1.5%) per month, or the maximum interest rate permitted by applicable law. Buyer shall pay to Seller all costs, expenses, and fees including, without limitation, attorneys' fees, incurred by Seller in collecting any amounts due and owing hereunder. In the event Buyer fails to make a required payment hereunder, or otherwise defaults under this Contract or any other Contract with Seller, Seller may, in addition to any other rights or remedies it may have, defer shipments, accelerate due dates on some or all amounts owned, and/or require cash payment or other security.

**13. BUYER'S CREDIT.** Credit terms may be decreased, cancelled or limited by Seller, both as to time and amount, at any time without notice, and the Price of any part of the Products deliverable under this Contract shall, at Seller's option, be payable in cash before shipment or on offer of delivery by Seller. If Buyer shall make an assignment or

trust for the benefit of creditors, become insolvent or unable to pay Buyer's debts as they mature, or if proceedings shall be commenced by or against Buyer by reason of alleged bankruptcy, insolvency, or any other financial issue or involving the appointment of a receiver, the following shall occur: (i) Buyer shall not accept delivery of any Products; (ii) title to the Products shall remain in Seller or Seller may rescind transfer of any title that has passed to Buyer; (iii) Buyer shall, at Seller's request, return all or any part of the Products to Seller, freight prepaid; and (iv) Seller may, wholly or partly, terminate this Contract by mailing notice to Buyer. Nothing herein shall be deemed to affect Seller's right of stoppage in transit as provided by law, or the right, at any time, upon written notice to Buyer, to decline to make a delivery unless Buyer pays in full in cash before shipment or on offer of delivery.

**14. FREIGHT.** Method and route of shipment is at Seller's discretion, unless Buyer supplies explicit instructions which are subsequently accepted by Seller in writing. If Buyer requires a more expensive means of routing, Buyer shall pay any extra cost involved. Buyer shall pay to Seller any increase in freight subsequent to the date hereof. Seller does not assume responsibility for any damage, directly or indirectly, resulting from delays in delivery. In the event Products are damaged in transit from Seller to Buyer, Buyer shall be responsible for filing a claim with the carrier for said damage.

**15. INDEMNIFICATION.** Buyer shall defend, indemnify, and hold Seller, its directors, officers, agents, employees, and affiliates harmless from and against all demands, actions, claims, losses, liabilities, damages, costs, expenses, professional fees (including attorneys' fees and legal costs) arising out of or relating to (i) any breach of this Contract by Buyer; (ii) Buyer's negligence or more willful acts or omissions; or (ii) the use of the Products by Buyer or its customers or end-users, including causes of action in negligence, product liability, strict liability, or warranty. The foregoing indemnity shall apply, without limitation, to injury to person (including death) or damage to property or the environment and shall survive the consummation or termination of this Contract.

**16. CONFIDENTIALITY AND INTELLECTUAL PROPERTY.** **16.1** Any existing confidentiality undertakings between the parties shall continue in full force and effect. In the event of a conflict between an existing confidentiality agreement and these Conditions, the terms of the existing confidentiality agreement shall prevail.

**16.2** Buyer shall keep confidential all confidential information of the Seller, and any company within its group, and shall only use the same as required to perform the Contract. The provisions of this Clause 16.2 shall not

apply to: (i) any information which was in the public domain prior to the date of its disclosure by the Seller to the Buyer or which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement or (ii) any disclosure required by law or a regulatory authority or otherwise by provisions of the Contract. Each party reserves all rights in its confidential information; no rights or obligations with respect to a party's confidential information other than those expressly stated in this Contract are granted to the other party or to be implied from this Contract.

**16.3** Seller is the owner of various trademarks, patents, inventions, design rights, trade secrets, know-how and other intellectual property rights in its Products. Buyer shall not use any of Seller's trademarks, patents, or other intellectual property rights without the prior, written consent of Seller, which may be withheld in Seller's sole discretion. No license is hereby granted, directly or indirectly, under any patent, invention, discovery, trademark, copyright, or other intellectual property right held, made, obtained, or licensed by either party now or in the future. Buyer shall indemnify, defend, and hold Seller harmless from and against any claims, losses, liabilities, costs, expenses, and fees (including, without limitation, reasonable attorneys' fees) to which Seller may become liable or incur as a result of any infringement of a third party's intellectual property rights resulting from Seller's compliance with Buyer's instructions, requirements or other specifications, or Buyer's use of the Products. In the event of any claim of infringement or the sale of Products is enjoined, Seller shall have no obligation to procure for Buyer the right to continue using such Products, to replace the same with equivalent non-infringing products, or to modify the Products so they become non-infringing.

**17. SET OFF.** Buyer shall make no deduction or set off for any claim arising out of or from this Contract or any other Contract with Seller, nor shall Buyer take any discount, credit, or allowance without Seller's written consent.

**18. SEVERABILITY.** If any provision of this Contract is held invalid, such invalidity shall not affect any other provision of this Contract.

**19. ENTIRE AGREEMENT; MODIFICATION.** This Contract constitutes the entire agreement between Seller and Buyer. Any amendment or modification to the Contract including, without limitation, the introduction of any additional terms and conditions, shall only be binding when agreed upon in writing and signed by an authorized representative of Seller.

**20. ASSIGNMENT; THIRD PARTY RIGHTS.** Buyer may not assign this Contract or any of Buyer's obligations hereunder without Seller's written consent. A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

**21. WAIVER.** Seller's failure to insist on performance of any of the terms of this Contract, failure to exercise any right or privilege, or waiver of any breach hereunder shall not thereafter waive any other terms, conditions, or privileges, whether of the same or similar type.

**22. GOVERNING LAW.** The validity, performance, construction and effect of this Contract shall be governed by and construed in accordance with the laws of England and Wales. The United Nations Convention on the International Sale of Goods shall not apply.

**23. JURISDICTION/VENUE.** Any dispute, controversy or claim arising out of or related in any way to the Contract, including but not limited to, the validity, scope, and enforceability of this Contract, which cannot be amicably resolved by the parties, subject to the jurisdiction of the courts of England and Wales. Buyer consents to the exclusive jurisdiction of such courts and agrees to waive any objection to the venue of such courts. The prevailing party in any such proceeding shall be entitled to reimbursement from the other party of the out-of-pocket, costs, expenses, and fees (including reasonable attorneys' fees) incurred in connection with such proceeding.

**24. NOTICE.** For the purpose of any notice required to be given by this Contract or pursuant to other pertinent law,

notice to Buyer shall be sent to the individual set out in the Order or such other representative as the Buyer or Seller may nominate in writing from time to time.

**25. EXPORT CONTROL.** Buyer undertakes to adhere to all applicable trade sanctions and export control laws and regulations with respect to the use and onward supply of the Products and shall take no action relating to the Products which may cause the Seller to breach any law or regulation to which it is subject. Buyer shall be solely responsible for obtaining any necessary export or import licenses or authorizations with respect to the Products or data provided hereunder, and Seller shall have no liability whatsoever for Products exported or imported without requisite licenses or authorizations. Buyer shall indemnify Seller from and against any losses, damages, liability, costs (including attorneys' fees) and expenses which Seller may suffer or incur from Buyer's breach of its obligations under this Clause 25.

**26. ETHICAL BEHAVIOR.** In performing its obligations under the Contract, Buyer shall conduct its business in an ethical manner and hold its workforce, employees, contractors, and agents accountable for ethical behavior. Buyer shall ensure that its workforce, employees, contractors, and agents are aware of their contribution to product conformity and safety. Seller reserves the right to request training documentation from Buyer in order to verify that ethical behavior expectations are being communicated to Buyer's workforce, employees, and agents.

**27. MISCELLANEOUS.** All rights and remedies of Seller under this Contract are in addition to Seller's other rights and remedies and are cumulative, not alternative.