

FUJIFILM UK LIMITED - STANDARD TERMS OF BUSINESS

These terms and conditions (“terms”) apply to all quotations, offers and contracts for the supply of any goods or services by FUJIFILM UK Limited (the “Company”) to any purchaser unless otherwise agreed in advance in writing by a duly authorised officer of the Company.

1. **Contract and Price**
- 1.1. Each contract for the supply of goods will incorporate these Terms, the provisions of any purchase order and any other written terms agreed with you. In the event of conflicting terms, these Terms will override.
- 1.2. Quotations shall lapse after 28 days (unless otherwise agreed) and the Company reserves the right to reject any purchase order submitted by you.
- 1.3. Prices quoted exclude VAT (unless otherwise stated). VAT will be charged at the rate applying at the time of delivery.
- 1.4. Prices quoted exclude delivery (unless otherwise stated).
- 1.5. Unless otherwise stated, the price quoted is an illustrative estimate only and the price charged will be our price current at the time of delivery.
- 1.6. Rates of tax and duties on goods will be those applying at the time of delivery.
- 1.7. At any time before delivery we may adjust the price to reflect any increase in our costs of supplying goods.
2. **Delivery**
- 2.1. All delivery times quoted are estimates only and the time of delivery is not of the essence.
- 2.2. If we fail to deliver within a reasonable time, you may (by notifying us in writing) cancel the contract however: you may not cancel if we receive your notice after goods have been dispatched; and
- 2.2.1. if you cancel the contract, you have no further claim against us under that contract.
- 2.2.2. If you accept delivery of goods after the estimated delivery time, you will have no claims against us for delay (including loss of profits, indirect or consequential loss or expense, or increase in the price of goods).
- 2.3. We may deliver goods in instalments. Each instalment will be a separate contract. Any delay in delivery or defect in an instalment shall not entitle you to cancel any other instalment.
3. **Services**
- 3.1. In the absence of you being notified of our separate services terms (which would then override these Terms in respect of services ordered), these Terms apply to our services, where we are to install, commission or repair goods, or provide other services.
- 3.2. Where we provide services, references in these Terms to “goods” are treated as referring also to services, and references to “delivery” are treated as also referring to us completing the performance of our services (except in clause 7 (title), 8 (risk), 9 (warranties), 12 (return of goods) and 13 (export terms)).
4. **Delivery and Safety**
- 4.1. We may decline to deliver goods to your premises if we believe it would be unsafe, unlawful or unreasonably difficult to do so and we may suspend any delivery (and charge you all costs we incur as a result including storage and insurance costs) until your premises are satisfactory for delivery and installation.
5. **Installation and Acceptance**
- 5.1. We will install and commission any goods that we supply for your own use (rather than for resale by you) after they are delivered to you in the UK. Unless otherwise agreed, the price quoted for such goods shall include delivery, installation and commissioning.
- 5.2. You must ensure that you make available all necessary access and all installation and commissioning facilities that we have confirmed are required (in writing or orally) including adequate working space, mountings, electrical installations, utilities and fittings.
- 5.3. We may suspend installation until any safety hazard or facilities shortcoming has been rectified.
- 5.4. You accept goods when:
 - 5.4.1. you make any commercial use of them; or
 - 5.4.2. (if sooner) any agreed acceptance tests have been completed (or in the absence of agreed tests when goods meet their standard performance specification).
- 5.5. You may not delay accepting goods for additions, minor omissions or defects which do not materially affect their commercial use.
- 5.6. We may charge for travelling time and other costs incurred if you cannot carry out any acceptance tests when we install goods.
6. **Payment Terms**
- 6.1. You will pay us in cash (or otherwise in cleared funds) on delivery, unless you have an approved credit account.
- 6.2. If you have an approved credit account, payment is due no later than 30 days after the end of the month of the date of our invoice (unless otherwise agreed).
- 6.3. If you fail to pay us in full on the due date we may by notice at any time and with immediate effect:
 - 6.3.1. suspend or cancel some or all orders on pending deliveries;
 - 6.3.2. cancel any discount offered to you;
 - 6.3.3. end your licence to use intellectual property rights, or software (or both);
 - 6.3.4. require you to pay us interest at the rate equivalent to that set out for the purposes of s6 Late Payment of Commercial Debts (interest) Act 1998:
 - a. calculated (on a daily basis) from the date of our invoice until payment;
 - b. compounded on the first day of each calendar month; and
 - c. before and after any judgement (unless the court orders otherwise).
- 6.4. If you have an approved credit account, we may at any time without notice withdraw it or reduce your credit limit or bring forward your due date for payment.
- 6.5. You do not have the right to set off any money you may claim from us against anything you owe us.
- 6.6. You are bound by our invoice if you do not advise us within five days of receipt of any fault in it.
- 6.7. While you owe money to us, we have a lien on any of your property in our possession.
- 6.8. You will indemnify us on demand in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly and including finance costs and legal costs on a full indemnity basis) following any breach by you of any of your obligations under these Terms.
7. **Title**
- 7.1. Title to the goods shall not pass to you until we have received payment in full (in cash or cleared funds) for:
 - 7.1.1. the goods; and
 - 7.1.2. any other goods that we have supplied to you in respect of which payment has become due.
- 7.2. Until title to the goods has passed to you, you shall:
 - 7.2.1. store goods so that they are clearly identifiable as our property;
 - 7.2.2. maintain goods in a satisfactory condition and insure goods against all risks for their full price on our behalf from the date of delivery and hold the policy on trust for us;
 - 7.2.3. notify us immediately if you become insolvent or cease or threaten to cease to trade; and
 - 7.2.4. give us such information relating to the goods as we may require from time to time, but you may resell or use the goods in the ordinary course of your business.
- 7.3. If, before title to the goods passes to you, you become subject to any of the events listed in clause 7.2.3, or we believe that such event is about to happen and notify you accordingly, then, provided the goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy that we may have, we may at any time require you to deliver up the goods and, if you fail to do so promptly, enter any premises of you or of any third party where the goods are stored in order to recover them.
- 7.4. We have your permission to enter any premises where goods may be stored:
 - 7.4.1. at any time, to inspect them; and
 - 7.4.2. after your right to use and sell them has ended, to remove them.
- 7.5. Despite our retention of title to goods, we have the right to take legal proceedings to recover the price of goods supplied should you not pay us on the due date.
- 7.6. You are not our agent. You have no authority to make any contract on our behalf or in our name.
8. **Risk**
- 8.1. Goods are at your risk from completion of delivery.
- 8.2. Delivery takes place either:
 - 8.2.1. upon completion of loading at our premises (if you are collecting them or arranging carriage); or
 - 8.2.2. upon completion of off-loading at your premises (if we are arranging carriage).
- 8.3. You must inspect goods on delivery. If goods are damaged (or not delivered), you must advise our carrier immediately and confirm to us in writing within seven days of delivery. We will then issue a confirmed claims number and you must return the damaged goods to us, following our instructions.
9. **Warranties**
- 9.1. We warrant that we will perform services with reasonable skill and care.
- 9.2. We warrant that goods will:
 - 9.2.1. comply in all material respects with their description on our order form; and
 - 9.2.2. be free from material defect at the time of delivery (subject to your compliance with clause 8.3).
- 9.3. Where we supply goods for resale by you they carry our warranty addressed to the end-user.
- 9.4. For all other goods, we warrant that they will be free from manufacturing defects for the “warranty period” which (unless otherwise stated by us in writing) is six months from the date of delivery (or completion of installation and commissioning if we install goods for you).
- 9.5. For services the warranty period (unless otherwise stated by us in writing) is six months from the date we complete performance of the services.
- 9.6. We will (at our option) repair or replace any goods which suffer component failure during the warranty period but you must contact us to request a confirmed claims number and comply with our instructions which must be carried out in full otherwise the return of goods will be refused. Goods are authorised for return only when you have received a confirmed claims number.
- 9.7. We may charge a reasonable fee to you for our inspection of goods but we will waive that fee if goods are found to be faulty.
- 9.8. Where goods are repaired or replaced under warranty, the warranty period is not extended.
- 9.9. Our decision will be final as to whether or not an alleged defect occurs within or outside the warranty period.
- 9.10. We do not warrant that goods are compatible with other goods or upgradeable unless confirmed by us in writing.
- 9.11. Our warranty does not cover:
 - 9.11.1. any defect arising as a result of your failure to comply with any instructions, whether oral or written, provided by us or the manufacturer in relation to the goods;
 - 9.11.2. any defect arising as a result of us following any specification or instructions supplied by you;
 - 9.11.3. improper use of goods or modification without our written authority; or
 - 9.11.4. malfunctions from abnormal environmental causes (for example mains power transients or extremes of humidity, or temperature) of which we had not been informed when you placed the order.
- 9.12. We give no other warranty (and exclude any warranty, term or condition that would otherwise be implied by statute or common law) as to the quality of goods or services or their fitness for any purpose.
- 9.13. We are not liable for any other loss or damage (including special, indirect or consequential loss, financial loss, loss of profits or loss of use) arising from the contract or the supply of services of goods or their use, even if we are negligent. Nothing in these Terms restricts or limits our liability for breach of any mandatory statutory obligation or for death or personal injury resulting from our negligence.
- 9.14. Our liability to you in respect of all or any claims for negligence or breach of contract or other duty to you is limited to two million pounds.
- 9.15. Subject to clause 9.14 we shall have no liability to you in any event for any of the following however and whenever arising:
 - 9.15.1. loss of profits, business, revenue, data, goodwill or anticipated savings; or
 - 9.15.2. special, indirect or consequential loss or damage.
10. **Specification and design**
- 10.1. If we supply goods in accordance with your specifications or instructions; you:
 - 10.1.1. warrant that the specification or instructions are accurate;
 - 10.1.2. are responsible to ensure that goods supplied in accordance with those specifications or instructions will be fit for the purpose for which you intend to use them; and
 - 10.1.3. warrant that the specifications or designs will not result in the infringement of any rights belonging to a third party and you will indemnify us upon demand in respect of all loss, damage, costs or expenses (including legal fees on a full indemnity basis) which we may incur in connection with any such claim or threatened claim by a third party.
- 10.2. We retain title (including copyright and all other registered and unregistered intellectual property rights) in all specifications, plans, drawings, patterns, blueprints, descriptions, designs, formulations, know-how, technical information and advice in whatever media that we supply to you. Any information you obtain from such items is confidential and you may not publish it, disclose it to any third party or otherwise make use of it without our written consent.
- 10.3. All intellectual property rights in or arising out of or in connection with the goods shall be owned by us unless agreed otherwise by us in writing.
- 10.4. We will tell you if we receive a material written warning that the sale or use of our goods infringes any third party intellectual property rights, but we make no other representation or warranty that our goods do not infringe third party intellectual property rights.
11. **Software**
- 11.1. We hereby licence you to use any software we supply.
- 11.2. The licence is non-exclusive, may not be assigned or transferred and allows you only to operate goods for the purpose for which they are designed.
- 11.3. You may not and will not allow any third party to:
 - 11.3.1. make any copies of software or, decipher, reverse engineer or alter it except to the extent permitted by law; or
 - 11.3.2. disclose any confidential information supplied with, or contained in, the software to third parties.
- 11.4. The licence ends when you cease to use the goods for which software is provided and you must then immediately return to us all copies of the software in your possession or control (or, if we request, destroy or delete all copies and provide written evidence that you have done so).
- 11.5. We warrant that we will use all reasonable endeavours to correct any material software fault of which you give us written notice within three months of delivery. If, in our opinion, we are unable to correct the fault, we will refund the price or proportionate value of the software (and you must then return all copies of the software to us). We have no other liability for bugs, errors or other defects in software.
12. **Return of goods**
- 12.1. We will accept the return of goods from you only:
 - 12.1.1. by prior arrangement (confirmed in writing);
 - 12.1.2. on payment of an agreed handling charge (unless the goods were defective when delivered);
 - 12.1.3. if you follow our RAN procedure; and
 - 12.1.4. where the goods are as fit for sale on their return as they were on delivery.
13. **Export terms**
- 13.1. Clause 13 of these Terms applies to exports except where inconsistent with any express written agreement between us concerning export terms and which are expressed to have overriding effect.
- 13.2. Where we supply goods to you by export from the United Kingdom then the “Incoterms” of the International Chamber of Commerce in force at the date the contract is made apply and goods are supplied ex-works unless otherwise agreed.
- 13.3. The Incoterms are treated as amended by these Terms (read as a whole) to the extent that they are inconsistent with them.
- 13.4. You are responsible for complying with any legislation or regulation governing the importation or use of goods into the country of destination and for the payment of any duties due.
- 13.5. Where we are to send goods to you by a route including sea transport we need not give a notice under s32(3) Sale of Goods Act 1979.
- 13.6. You must arrange to test and inspect the goods at our premises before shipment except where otherwise agreed. We are not liable for any defect in goods which would be apparent on inspection unless a claim is made before shipment.
- 13.7. We have no liability for death or personal injury arising from the use of the goods where the goods are to be delivered in the territory of another State (within the meaning of a 26(3)(b) Unfair Contract Terms Act 1977).
14. **Cancellation**
- 14.1. If you cancel the whole of any part of any order for any reason you must pay us for all materials, stock (finished or unfinished) and value of work in progress that we hold or to which we have committed for that order.
- 14.2. In addition to clause 6.3.1 we may suspend or cancel the whole or part of any order immediately by written notice if you become insolvent or you fail to honour any of your contract obligations.
- 14.3. On cancellation of the whole or part of an order for any reason, you shall immediately pay all outstanding amounts owing to us in respect of goods supplied, together with any applicable interest.
15. **Waiver and variations**
- 15.1. Any waiver or variation of these Terms is binding only if made (or recorded) in writing, signed on behalf of each party and expressly stating an intention to vary these Terms.
- 15.2. All orders that you place with us with be subject to these Terms (or any that we may issue to replace them). By placing an order with us, you are expressly waiving any terms of purchase that you may notify to the extent that they are inconsistent with these Terms or any other terms notified by us.
16. **Force majeure**
- 16.1. If either we or you are prevented or delayed in the performance of any of our contract obligations by a circumstance outside our reasonable control (Force Majeure) the affected party will immediately notify the other party, specifying the circumstances giving rise to the Force Majeure, and after notification will have no liability in the performance of the relevant obligations for so long as they are prevented by the Force Majeure.
- 16.2. If a Force Majeure event persists for more than 90 days, we shall have the right to cancel the affected order(s), in whole or in part, immediately by written notice.
17. **Disposal of waste products**
- 17.1. You accept responsibility in respect of the disposal of goods we have supplied to you, in lieu of us as manufacturer or supplier, for all obligations arising under the Directive of the European Council and Parliament 2002/96/EC on Waste Electrical and Electronic Equipment and any United Kingdom or other statute, regulation or other legal requirement issued or made in connection with that Directive as modified from time to time.
18. **General**
- 18.1. English law applies to any contract incorporating these Terms and the courts of England and Wales have exclusive jurisdiction in respect of any dispute arising in connection with any such contract.
- 18.2. If you are more than one person, each of you has joint and several obligations under these Terms.
- 18.3. If any of these Terms are unenforceable as drafted it will not affect the enforceability of any other terms and if it would be enforceable if amended, it will be treated as amended to the extent required to make it enforceable.
- 18.4. We may treat you as insolvent if:
 - 18.4.1. you are unable to pay your debts as they fall due; or
 - 18.4.2. you (or any of your property) become the subject of:
 - a. any formal insolvency procedure (including receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy);
 - b. any application or proposal for any formal insolvency procedure; or
 - c. any application, procedure or proposal outside the United Kingdom with similar effect or purpose.
- 18.5. Either of us may serve a notice by leaving it at or by delivering it by recorded delivery post to the other’s registered office or principal place of business and such notice will be deemed served when left at the relevant address or at the time of recorded delivery.
- 18.6. Any reference in these Terms to “stated”, “notified”, “confirmed” or similar phrases includes a requirement for such matter to be in writing unless expressly stated otherwise.
- 18.7. No contract will create any right enforceable (by virtue of the Contracts (Rights of Third Parties) Act 1999) by any person not identified as the buyer or seller.
- 18.8. A contract entered into on these Terms between the parties constitutes the whole agreement and understanding of the parties and supersedes any previous arrangement, understanding or agreement between them. The parties acknowledge that, in entering into a contract, they have not relied on any statement, representation, assurance or warranty (whether made negligently or innocently) other than those expressly set out in these Terms.
- 18.9. All brochures, catalogues, websites and other promotional materials are to be treated as illustrative only and do not form part of any contract between us.
- 18.10. Nothing in these Terms affects or limits our liability for fraud or fraudulent misrepresentation.
- 18.11. You may not assign, transfer or sub-contract the benefit or burden of any contract right or obligation without our written consent.
- 18.12. At any time, we may elect not to enforce our legal rights to their full extent. We do not waive those rights in that event.