

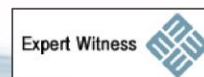


# Griffin Forensics

Digital Investigations and  
Data Recovery Experts

## Terms and Conditions of Trade

Dated: 1<sup>st</sup> January 2017



5 Oxford Court, St James Road, Brackley, Northampton NN13 7XY

E: [info@griffinforensics.com](mailto:info@griffinforensics.com) T: 01280 707190 DX: 16982 Brackley

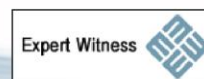
Registered in England: 6007632 VAT No: 899 7621 43

## I. GENERAL

- 1.1. In these terms and conditions (the "Terms") references to "Griffin" are to Griffin Forensics Ltd. "Client" means any person, firm, company or any other party with whom Griffin enters into any contract whether directly or indirectly. "Contract" means any Contract for Goods howsoever made between Griffin and the Client. "Goods" shall be taken to include, but shall not be limited to, any computer hardware, firmware, software, training or consultancy services supplied by Griffin for the purposes of data recovery, data conversion, data analysis, data duplication, computer consultancy services and forensic services and, "Client Goods" shall be taken to include but not be limited to any computer hardware, firmware or software supplied by the Client to Griffin so that Griffin may undertake data recovery, data conversion, data analysis, data duplication and/or forensic services.
- 1.2. Each Contract with Griffin shall be subject to these Terms and any terms specified or referred to in writing signed by an authorised signatory of Griffin in the relevant quote or TOR (terms of reference). These Terms shall prevail over any other inconsistent terms, communications or form of contract unless such terms are expressly agreed in writing signed by a Director of Griffin.
- 1.3. If the Client submits any instruction containing terms inconsistent with or purporting to override these Terms, Griffin's acknowledgement or acceptance of such instruction shall constitute a counter offer to these Terms.
- 1.4. No waiver by Griffin of any breach of these Terms shall be effective unless in writing, or prejudice Griffin's rights in respect of any subsequent breach.
- 1.5. Business Days are defined as Monday to Friday excluding Public Holidays. Business working hours shall be defined as 09:00 to 17:00 at the site of the work.
- 1.6. Griffin will use reasonable endeavours to meet relevant response times. However failure to meet response times is not of the essence of any contractual obligation.
- 1.7. Where on site work is required circumstances may arise where additional staff and equipment are required to deal with site-specific conditions. Additional staff and equipment are outside the scope of the quote and may incur additional time and costs.

## 2. ESTIMATE AND FORMATION OF CONTRACT

- 2.1. Acceptance of any quote by the Client must be in writing, signed by an authorised signatory of the Client and such acceptance shall with the quote form the Contract. Griffin reserves the right not to commence work or accept any appointment until Griffin has received the said acceptance.
- 2.2. Griffin reserves the right to cancel the Contract without liability to the Client at any time before the Goods are delivered or the services are performed if Griffin becomes aware that the work infringes any applicable laws or regulations, industry standards or any third party rights or involves (if not stated in the quote) obscene, libellous or defamatory material. The Client will indemnify Griffin for any loss, costs, damages, charges and expenses that Griffin incurs in respect thereof.
- 2.3. In the instance where site work has been cancelled or postponed by the Client before the scheduled work is due to take place, Griffin may at its discretion levy a cancellation fee.
- 2.4. Griffin shall supply and the Client shall purchase the Goods as principals only, to the intent and with the effect that no other party shall have any rights or obligations, or be entitled to sue or become liable to be sued, under the Contract.



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### 3. PERFORMANCE AND DELIVERY

- 3.1. Unless expressly agreed to the contrary in writing all times and dates for performance of services and for dispatch or delivery of Goods are estimates only given in good faith but without liability on the part of Griffin. Time of performance, dispatch or delivery is not of the essence of the Contract.
- 3.2. Griffin may dispatch or deliver Goods by instalments in such quantities and at such times as it decides.
- 3.3. The Client undertakes to inspect or to procure the inspection of the Goods delivered at the earliest opportunity after delivery and in any event within 48 hours of delivery. Any claim for shortfall in a delivery of the Goods or claim that the Goods do not comply with the order confirmed by Griffin must be notified in writing within 3 days of delivery. Failure to make such a claim within the period shall constitute unqualified acceptance of the Goods and waiver by the Client of all claims relating to non-delivery of the Goods, non-compliance with the order or delivery of the wrong Goods.
- 3.4. The Client is responsible for ensuring that the work stipulated by it in the Contract is sufficient for its purpose. Griffin makes no representations or warranties as to the benefit to the Client arising out of the provision of the work.
- 3.5. All data conversion work will be carried out in accordance with the Client's reasonable instructions however no warranty can be given as to the suitability of the converted data to the Client.
- 3.6. All investigation and processing work is carried out on the understanding, that unless otherwise stated in the Contract, any and all of the Client's Goods are in good working order. Prior to commencement of work no warranty is given in this respect. Where hardware, firmware or software faults are encountered in the Client's Goods additional work may be involved. This work is outside the scope of the Contract and may require the expenditure of additional time and cost.
- 3.7. All work carried out by Griffin will be diligently executed in accordance with the Client's reasonable instructions and in accordance with the Contract.
- 3.8. The Client shall not return Goods to Griffin whether under this warranty or otherwise unless expressly instructed to do so by Griffin and all Goods returned to Griffin must be suitably packaged.

### 4. PRICE AND PAYMENT

- 4.1. All prices quoted in writing are valid for 30 days unless otherwise stated in the Contract.
- 4.2. Subject as is expressly agreed by Griffin or detailed in the Contract, Griffin may invoice the Client at such times as it shall in its discretion think fit and reserves the right to raise more than one invoice in respect of any Contract.
- 4.3. Unless granted a Credit Account by Griffin, payment must be made on acceptance of the Contract.
- 4.4. Griffin may at its absolute discretion grant the Client an account allowing up to 28 days credit in respect of such amount as Griffin shall from time to time decide ("Credit Account"). Griffin reserves the right at any time without notice to the Client, with immediate effect and without assigning any reason thereof to refuse or limit the amount and/or period of credit which may be available to the Client.



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- 4.5. If the Client exceeds the limit on any Credit Account any further sums due from the Client must be paid immediately.
- 4.6. Griffin reserves the right to decline to start or continue any work if the Client does not pay Griffin in accordance with these Terms.
- 4.7. Griffin shall be entitled to charge interest on any overdue sums at a rate of 1.5% per month from the due date up to and including the date of payment of cleared funds. Such interest shall be payable on demand.
- 4.8. The price and any additional charges payable under the Contract are exclusive of all sales taxes including Value Added Tax at the prevailing rate.
- 4.9. Time for payment is of the essence of the Contract.
- 4.10. Where it is necessary to use additional media to carry out the recovery or diagnosis e.g. spare parts for a disk drive, Griffin reserves the right to charge the Client for such additional media at cost.

## 5. RISK, PACKAGING AND CARRIAGE

- 5.1. Risk in the Client's Goods shall only pass to Griffin when received at the premises of Griffin and shall pass back to the Client when notified by Griffin that data and/or the Client's Goods are available for collection at the premises of Griffin or on dispatch by Griffin whichever is applicable.
- 5.2. Griffin is not responsible for arranging and/or paying for packaging and carriage of the Client's Goods to Griffin or to the Client unless specifically stated elsewhere in the Contract.
- 5.3. Griffin may arrange for dispatch to the Client of the recovered data and/or Client's Goods by courier for which charges may be made.
- 5.4. If within 30 days after Griffin has informed the Client of the completion of the work, Griffin has not received any written instructions to return the Client's Goods and/or data Griffin may dispose of the Client's Goods as it deems fit (except in the case of investigation or forensic processing work where for legal reasons the data and/or Client's Goods may not be disposed of by Griffin) or at Griffin's discretion levy a storage charge therefore.

## 6. TERMINATION AND CANCELLATION

- 6.1. The Client may not cancel any Contract which has been accepted by Griffin except with the written agreement of Griffin and on terms that the Client shall indemnify Griffin in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Griffin as a result of cancellation.
- 6.2. Without prejudice to its rights, Griffin may terminate the Contract or suspend any future deliveries to the Client if:
- 6.2.1 Any distress execution or other legal process is levied upon any of the Client's assets
- 6.2.2 The Client ceases to trade or becomes unable to pay its debts as they fall due or a petition is presented or a meeting convened for the purpose of its winding up or the Client enters into liquidation, either compulsory or voluntary, or compounds with its creditors generally or has an administrator, receiver or administrative receiver appointed over all or part of its assets or takes or suffers any similar action in consequence of debt
- 6.2.3 The Client fails to pay by the due date for payment any monies due from it to Griffin



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6.2.4 The Client commits any breach of these Terms and fails to remedy such breach (if capable of remedy) within a period of 30 days from receipt of notice in writing from Griffin requesting such remedy

6.3. Termination will not affect the rights of either party accrued at the date of termination nor will it affect the obligations expressed or clearly intended to continue notwithstanding termination.

## 7. WARRANTY

7.1. Due to the nature of data recovery work Griffin cannot warrant or give guarantees to be able to recover data in whole or in part or that any data so recovered will be complete or of use to the Client.

7.2. Due to the nature of data recovery work Griffin cannot warrant or give guarantees that any goods received from the Client will not suffer damage or be further damaged as a result of the data recovery process.

7.3. With regard to work involving the investigation or forensic processing of data no guarantee is given or implied as to the existence of any evidentially significant material prior to the commencement of any investigation or forensic processing work. Irrespective of the result of investigation or forensic processing work and in all instances, the agreed fee is payable by the Client in accordance with these Terms.

7.4. Unless otherwise stipulated in writing in the Contract any hardware supplied by Griffin shall be covered by the applicable warranty provided by the manufacturer.

7.5. Where hardware, firmware or software is supplied by Griffin, Griffin shall be under no obligation to maintain the product under the provisions of the warranty where, in Griffin's reasonable opinion, maintenance or repairs are needed because of improper or inadequate installation, use or maintenance, actions or modifications by unauthorised third parties or the Client, or accidental or wilful damage.

7.6. Where Griffin supplies hardware, firmware or software, Griffin reserves the right to replace the whole or any part of the Goods under the provision of the warranty. Repairs may be carried out using reconditioned parts or products, which, whilst not necessarily identical to the Goods, are equivalent to new in functionality.

## 8. LIABILITY

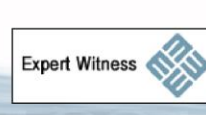
8.1. All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

8.2. Griffin shall not be liable for any loss of profits or business, anticipated earnings or goodwill.

8.3. Subject to 8.2 the entire liability of Griffin howsoever occasioned, shall not exceed a sum equivalent to the sum paid to Griffin by the Client under these Terms.

8.4. The Client shall indemnify Griffin and keep Griffin fully and effectively indemnified against any loss of or damage to any property or injury to or death of any persons caused by any negligent act or omission or wilful misconduct of the Client, its employees, agents or sub-contractors or by any breach of its contractual obligations.

8.5. Nothing in these terms and conditions excludes or limits the liability of Griffin for death or personal injury caused by Griffin's negligence or fraudulent misrepresentation.



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## 9. THIRD PARTY RIGHTS

9.1. No term of the Contract shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party

## 10. CONFIDENTIALITY

10.1. Subject to the provisions of 10.2, each party shall take all reasonable measures to keep confidential all information that is disclosed to such party by the other party (or that may come to such party's knowledge or is disclosed to it as a result of visiting the premises of the other party during the course of this Contract) in order for the services to be performed under this Contract.

10.2. The provisions of 10.1 shall not apply to any information that the receiving party can show:

10.3. Was at the time of receipt in the public domain or which subsequently became part of the public domain through no breach of this Contract;

10.3.1. Was already in the receiving party's possession at the time of receipt and which was not acquired directly or indirectly from the disclosing party; or

10.3.2. Was lawfully acquired by the receiving party from others who had full rights to disclose it to the receiving party.

10.4. The confidentiality obligations in this clause shall be deemed to apply also to the employees, consultants, contractors and ex-employees of the receiving party.

## 11. FORCE MAJEURE

11.1. Griffin shall not be liable for any failure or delay in the performance of its obligations where the same is due to any circumstances outside its reasonable control, including (without limiting the foregoing) war, strikes, lock-outs, industrial action, shortage of supplies, breakdown, transport delays, accidents, government action, fire, terrorism or criminal acts.

## 12. INTELLECTUAL PROPERTY RIGHTS

12.1. The copyright, design right and all other intellectual property rights in the Goods and all other works created or commissioned by Griffin shall remain exclusively the property of Griffin. All attempts by the Client or any other person to use, copy, adapt, reproduce or transmit all or any part of such Goods and other work created or commissioned by Griffin without Griffin's prior written consent are prohibited to the fullest extent permitted by law.

12.2. The Client warrants that so far as it is reasonably aware it either owns or has rights to use and provide to Griffin to use in the Contract any ideas, concepts, designs and materials or data which it may provide to Griffin in pursuance of the Contract.

## 13. ENTIRE AGREEMENT

13.1. These Terms supersede any previous agreement between the parties in relation to the matters with which they deal and represent the entire understanding between the parties in relation to those matters.

## 14. NOTICES

14.1. Notices given by Griffin or the Client must be in writing and sent to the address of the recipient set out in the Contract or the recipients registered office.

14.2. Any such notice may be delivered personally or by first class prepaid letter or facsimile transmission and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours after posting and if by facsimile transmission when despatched.



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14.3. Any notice concerning the validity or existence of the Agreement must be delivered personally or sent Special Delivery first class letter post

## 15. SEVERANCE

15.1. If at any time all or any part of one or more of the provisions of these Terms is held by any competent authority to be invalid, illegal or unenforceable in any respect under any law, the validity and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

## 16. LAW AND JURISDICTION

16.1. These Terms and all contracts made between Griffin and the Client shall be governed in accordance with the laws of England and Wales and the Client submits to the sole jurisdiction of the English Courts.

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