

ALV 05

GENERAL CONTRACT TERMS FOR THE DELIVERY AND ASSEMBLY OF GRAPHIC MACHINERY AS WELL AS OTHER MECHANICAL, ELECTRICAL AND ELECTRONIC GRAPHIC EQUIPMENT

Issued in 2005 by
the Swedish Graphic Companies' Federation,
the Graphic Arts Suppliers' Association and
the Swedish Newspaper Publisher's
Association.

ENGLISH EDITION

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INTRODUCTION

The three industry organizations, the Graphic Arts Suppliers' Association (*Grafiska Leverantörsföreningen*), the Graphic Companies' Federation (*Grafiska Företagens Förbund*) and the Swedish Newspaper Publishers' Association (*Tidningsutgivarna*), have jointly drawn up this new edition of the General Contract Terms for the delivery of graphic machines with assembly, as well as other mechanical, electrical and electronic graphic equipment. This new version of the General Contract Terms is presented under the acronym ALV 05, in Swedish "Allmänna leveransvillkor för leverans med montage av grafiska maskiner samt annan mekanisk, elektrisk och elektronisk grafisk utrustning".

ALV 05 is an elaboration of the previous delivery terms for graphic equipment (ALV 93). The contents of ALV 05 are related to the well-established NL standard agreements, which have been developed within the technical industries in Denmark, Finland, Norway and Sweden, and that have been updated several times since the mid 1950's. ALV 05 is closely related to the NL document called NLM 02, which contains the terms and conditions for the delivery of machines and machinery equipment and assembly. NLM 02 also closely coincides with the equivalent standard agreements issued by Orgalime, the European Engineering Industries Association. These associations provide the ALV 05 with greater significance and authority.

Just as with the other standard agreements that are used within trade and industry, the purpose of the ALV 05 is to be incorporated into the respective individual agreements which describe the specific goods and services that the respective parties shall provide, as well as the price, terms of payment etc. This will facilitate the drafting of individual agreements. The most frequent and significant questions that the parties may face are provided with well thought-out responses that represent what are generally deemed to be balanced solutions. At the same time, the delivery terms act as a reliable check list during your contract negotiations. For easy access, the ALV 05 is available via the industry and trade association websites.

ALV 05 contains 85 different terms and conditions, which is considerably more than ALV 93. This is partly because some of the matters have been divided up into several sections, but mainly because it covers more subject areas. Many issues are also discussed in greater detail. The aim is to clarify the contents and implication of the terms for the parties involved. For this purpose, and in order to make it easier to find your way within the document, it has been divided into several different headings. The document has also been provided with a detailed Table of Contents.

The text has been divided into several main chapters. Each chapter is presented in the text and in the Table of Contents as a heading in capital letters and in a larger font. The chapters are organized in chronological order, in the way that the issues arise during the life of the contract – from the start of the negotiations up to the concluded contractual relation. The main emphasis is placed on

the following main chapters: Software; Testing and Inspections When Manufacturing the Goods; Assembly, Contract Amount and Payment; Acceptance Tests, Trial Runs and Takeover; The Supplier's Liability for Delays; and the Supplier's Liability for Faults.

Following the example of the NLM 02, the ALV 05 begins with a glossary containing the definition of terms used in the document. In the text, these terms begin with a capital letter.

ALV 05 is one part of a project created by the three trade associations, with the purpose of creating a functional contracting system within the area of graphic machinery. The other portion of the project, which has already been completed and implemented, is the reformation of the Graphic Council (*Grafiska Nämnden*), which was established in 1985 for the purpose of issuing opinions regarding the interpretation of the machinery terms / ALV. The aim of this reformation was to render the case load management more efficient and to increase the Council's authority. The Graphic Council now also provides services to suppliers and buyers who are not members of any of the three trade associations. The Council's operations will be presented in a separate publication. In this document, reference is made to the Council's services in the Chapters regarding Interpretation and Disputes, and under Arbitration.

The ALV 05, as well as the Council reformation, has been a joint venture that was initiated, planned and carried out by all three of the trade associations representing suppliers and buyers of graphic machines and graphic-technical equipment. These terms and conditions can therefore claim to be classified as a genuine "agreed document".

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APPLICATION AND LIABILITIES OF THE PARTIES

1. The terms of the ALV 05 are intended to be incorporated into the parties' individual agreements. The terms will be applicable once the parties have agreed to them, either in writing or in some other contractual manner. Any departure or deviation from the terms must be agreed upon in writing in order to be valid.

The Customer and the Supplier are liable to the other party for the performance of their subcontractors and other party commitments that derive from the same.

Definitions

2. In the ALV 05, the following meanings shall apply to:

The Agreement: The parties' agreement regarding delivery of the Plant, together with all its attachments, as well as any agreed-upon amendments and additions to these documents.

The Goods: Any machinery, apparatus and material, drawings and other technical documents and deeds, as well as other objects that the Supplier shall deliver according to the Agreement.

The Plant: The Goods, and the result of the work for which the Supplier is responsible according to the Agreement.

If the Plant, according to the Agreement, will be taken over in separate parts, which are expected to be used independently of each other, then the terms of the ALV 05 shall apply to each part individually. In that case, the Plant shall mean each respective part.

The Assembly Site: The location where the Plant shall be assembled and the areas in the immediate vicinity thereof, and which are necessary for the transport, unloading and storage of the Goods and assembly equipment.

The Contract Amount: The payment that shall be made for the Plant, excluding value added tax (VAT) and any public duties or charges that the Supplier could not have predicted at the time the Agreement was concluded.

Notice in Writing: A document that has been signed by one of the parties and that has reached the other party; as well as messages that reach the other party via letter, fax, e-mail or any other form of communication that the parties have agreed upon; as well as the contents of the minutes of a meeting that has been signed and approved by both parties.

Software: The software that is included in the Plant, and which consists of:

- *Supplier software*, meaning the software that the Supplier owns the copyright to; and/or
- *Sub-licensed software*, meaning software that the Supplier grants the use of, with the consent of the copyright holder.

THE PLANT

Scope

3. The Plant shall have the scope that is stipulated in the Agreement.

Legality

4. The Plant shall fulfil the requirements of any laws, regulations and other official requirements that were in effect on the date of the bid in the country that the Assembly site is located in. At the request of the Supplier, the Customer is required to inform of any such laws, regulations and requirements that may apply to the Plant.
5. The Supplier is required to perform any additional work that may be occasioned by any changes that may be implemented to the laws, regulations and other official requirements that apply to the Plant, from the bidding date to the date of taking over. This also applies to any changes in the prevailing application of such laws, regulations and requirements. Sections 12 and 13 shall apply to any such additional work.

TECHNICAL DOCUMENTATION

6. The Supplier shall, without any particular compensation, provide the Customer with one copy (or more, should more copies have been agreed upon), both of the project plan of the assembly according to Section 23 with the relevant attachments; and no later than the date of takeover, of the drawings and other technical documents, that are sufficiently detailed so that the Customer is able to arrange for the setting up, operation and maintenance of the Plant, including ordinary repairs. However, the Supplier is not required to provide any drawings or documentation for the manufacturing of the Goods or of the spare parts.

The copyright for all drawings and other technical documents regarding the Plant which are delivered to the other party, either prior to or after concluding the Agreement, shall remain with the delivering party. Nor shall this affect the right of disposition of other intellectual property rights that are rendered in the drawings and documentation.

SOFTWARE

The Rights and Obligations of the Parties

7. Unless otherwise agreed in writing between the Supplier and the Customer, the following shall apply with regard to the Customer's right to use the Software:

7.1 The Customer acquires the right to use the Supplier program when using the Plant. The Customer may assign this right of use to a subsequent party that acquires the Plant. The Supplier maintains the copyright to the Supplier program, even if the program has been especially developed for the Customer. The Customer, at his own risk, may make any such adjustments of the Supplier program that are consistent with the general purpose of the Plant.

The Supplier is not required to provide the source code for the Supplier program.

The Supplier is responsible for support and any necessary licensing fees for sub-licensed programs.

7.2 With the restrictions that may have been agreed between the copyright owner and the Supplier, the Customer acquires the right to use the Sub-licensed Program when using the Plant, and to assign this right of use to a subsequent acquirer of the Plant. The Supplier shall, no later than on the date when the Agreement is concluded, inform the Customer by Notice in Writing of any such limitations or restrictions.

7.3 The Supplier is not required to provide the Customer with any updated versions of the Software.

The Supplier's Liability Regarding Intellectual Property Law Infringements

8. The Supplier shall indemnify the Customer against all claims from third parties that are based on any copyright or other intellectual property law infringements as a result of the Customer's use of the Software.

However, the Supplier shall not be held liable for infringement claims based on

that the Software has been used in a manner or in a place that has not been agreed upon, or which the Supplier could not have foreseen, or

that the Customer has made changes to the Software.

8.1 The Supplier shall, at his expense, deal with any infringement claims as indicated under Section 8. The Supplier shall reimburse the Customer for any amounts that the Customer may be forced to pay according to a legally binding ruling or settlement that the Supplier has approved.

The Supplier's liability shall only apply provided that the Customer, without delay, informs the Supplier in writing about any infringement claims that are received, and that the Customer allows the Supplier to determine how to handle the claim, both within and outside the court.

8.2 If there appears to have been an infringement in copyright or any other intellectual property laws, and if the conditions indicated under the second paragraph of Section 8.1 have been fulfilled, the Supplier shall within reasonable time choose to:

either secure the Customer's right to continue to use the Software;

or change the Software so that the infringement no longer exists;

or replace the Software with another software program with the equivalent function, and which does not constitute an infringement.

8.3 Should the Supplier neglect to remedy in due time according to Section 8.2, then Section 74 shall apply.

8.4 In addition to the stipulations under Section 9 below, the Supplier has no liabilities whatsoever toward the Customer for any infringements in the rights of third parties as a result of the Customer's use of the Software. However, this limitation in the liability of the Supplier is not applicable if the Supplier has been guilty of gross negligence.

The Supplier's Liability for Other Software Faults

9. For any other faults in the Software, other than that its use causes infringement in intellectual property laws, Sections 63 – 76 shall apply.

MODIFICATIONS TO THE PLANT

Customer Requests

10. With the limitations indicated in Section 4, and up to the date of takeover, the Customer has the right to demand modifications in the originally agreed-upon scope, construction and design of the Plant.

Any calls for modifications shall be submitted by Notice in Writing to the Supplier, and shall contain a detailed description of the alterations that are being requested.

Supplier Suggestions

11. Up to the date of takeover, the Supplier may suggest any such modifications as indicated in the first paragraph of Section 10 by means of Notice in Writing.

Prerequisites for Modifications

12. The Supplier shall, as soon as possible after having received a request for modifications in the Plant or having itself submitted a suggestion for such modifications, by Notice in Writing, notify the Customer whether or in which way the modification may be carried out and which adjustments to the Contract Amount, the delivery time and other terms of agreement, the modification gives rise to.

The Supplier shall also provide the Customer with the aforementioned notification if and when any modifications are required as a result of changes in the laws, regulations and requirements mentioned under Section 5.

13. Over and above the provisions of Section 5, the Supplier is not required to implement any modifications until both parties have agreed in writing upon how these modifications shall affect the Contract Amount, delivery time and any other terms of agreement.

Should the parties not agree upon how the terms of agreement shall be affected by the modifications which are mentioned under Sections 10 and 11, the Supplier shall carry out such alteration work on an ongoing basis, pending the reaching of an agreement or resolving the dispute according to Sections 84 or 85.

CONFIDENTIALITY

14. Any received drawings, other technical documentation or information may not be communicated to any outside parties or used for any other purpose than that for which they were delivered, without the consent of the other party. Nor may they be reproduced without the consent of the other party.

Both parties are liable to maintain discretion and confidentiality in accordance with generally accepted business practices, with regard to its business relations with the other party and the substance of the agreed-upon performances, as well as any and all other information that they have learned about the other party's commercial affairs.

By means of appropriate measures, both parties shall ensure that this confidential treatment is respected by their own staff and employees, by sub-contractors and consultants and their staff, as well as any other hired personnel that may obtain insight into the other party's operations.

TESTING AND INSPECTION WHEN MANUFACTURING THE GOODS

Contractual Testing of the Goods

Test Site

15. If the Agreement requires that the Goods be tested in connection with its manufacturing, said acceptance testing shall take place on the site where the Goods are being manufactured, unless another testing site has been agreed upon.

Testing Methods

16. Unless technical requirements for the acceptance testing have been agreed upon, testing shall be carried out in accordance with the practice that is followed for checking the function of products of a similar nature.

Performing the Acceptance Testing

17. By means of a Notice in Writing, the Supplier shall inform the Customer about the acceptance testing in sufficiently good time for the Customer to arrange to be present. Should the Customer not have received said notification, the acceptance testing may be carried out even though the Customer is not represented at the testing.

The Supplier shall take minutes of the acceptance testing and deliver these to the Customer. Unless the Customer indicates the opposite, these minutes shall be deemed to give a correct description of how the acceptance testing was carried out, as well as its results.

Manufacturing Inspection by the Customer

18. The Customer has the right, to a reasonable extent or in accordance with the provisions of the Agreement, to inspect the manufacturing of the Goods during normal working hours and giving three days notice.

Distribution of Testing and Inspection Costs

19. Unless another cost distribution has been agreed upon, the Supplier shall bear all costs related to acceptance testing of the Goods carried out on the site where the Goods are manufactured. However, with regard to the acceptance testing and manufacturing inspection indicated under Section 18, the Customer shall bear any and all costs for himself and his own engaged staff, including any costs for travelling, accommodation and other living expenses.

Corrective Action

20. If, after the acceptance testing or during a manufacturing inspection according to Section 18, the Goods are found not to be in the agreed-upon condition, the Supplier shall ensure that the Goods are made to be in conformity with the agreement as soon as possible. Should the Customer request it, another acceptance test shall be carried out thereafter. However, if the deviation was insignificant, no new testing may be requested.

ASSEMBLY

Representation of the Parties at the Assembly Site

21. Both parties shall, no later than when the Supplier communicates that the Goods are ready for delivery from the factory, each appoint a representative for the duration of time that work is carried out at the Assembly site.

Both representatives shall be readily available during working hours. Unless otherwise stipulated in the Agreement, said representatives shall have sufficient power of attorney to act on behalf of their respective parties in any and all matters regarding the Assembly. In those cases where these general terms require that a Notice in Writing be given, the representative is always authorized to receive such notice on behalf of its respective party.

Obligations of the Supplier

The Supplier's Notification of Delivery of Goods

22. The Supplier shall give the Customer Notice in Writing indicating when the Goods will be ready for assembly in sufficiently good time for the Customer to be able to take the appropriate steps that are required of the Customer, in accordance with Section 29, in order for the Assembly to be carried out.

The Supplier's Obligation to Provide Instructions

23. The Supplier shall, on the stipulated date or, if no date has been stipulated, in good time prior to the Assembly, present a project plan and provide the Customer with the drawings or descriptions which indicate how to assemble the Goods. At that time, the Supplier shall provide all the information that the Customer needs in order to be able to build the foundation and any other bases that may be required for the Plant, and to ensure the unimpeded transport of the Goods and any necessary assembly equipment to and within the Assembly site, as well as to arrange for all the necessary connections for the Goods.

The Supplier's Liability for Instruction Faults

24. The Supplier shall bear all costs caused by any faults or errors in the drawings, information or directions indicated in Section 23, if any such faults were to appear prior to takeover. If the fault appears after the takeover, Sections 63 – 76 shall apply.

The Supplier's Provision of Assembly Equipment

25. Unless otherwise stipulated, the Supplier shall provide all the necessary equipment for the Assembly, such as cranes, raising equipment and scaffolding, as well as the equipment required for transportation within the Assembly site.

The Supplier's Safety Supervision

26. The Supplier shall ensure that its own and any hired staff follow the safety regulations that apply at the Assembly site. This does not limit the Customer's obligations under Section 29.

The Supplier is obliged, at the request of the Customer, to shut out any of its own or hired employees which do not follow the safety regulations.

The Supplier shall provide the Customer by Notice in Writing with the necessary directions regarding any special risks for the environment that may be related to the Assembly.

The Supplier's Employee Management

27. The Customer may not, without the express consent of the Supplier, command any of the Supplier's staff or employees to perform any work.

The Supplier's Right to Inspect the Assembly Site

28. The Supplier has the right, at any time during working hours, to inspect the Plant at the Assembly Site, at his own expense. This right shall be in force until the Plant has been taken over, and thereafter during the time that work is being carried out according to Sections 63 – 76.

Obligations of the Customer

The Customer's Liability for the Work Environment

29. The Customer is liable to the Supplier to ensure that the Assembly is carried out under circumstances that are consistent with the applicable laws and regulations regarding the work environment at the Assembly site. The Customer shall give the Supplier Notice in Writing regarding the safety regulations that apply to all employees at the Assembly Site.

The Customer shall provide adequate changing, washing and eating facilities for the assembly staff, at or near the Assembly Site, that is free of charge and at the disposal of the Supplier. The Customer shall also be responsible for providing the Supplier's staff with room and board near the Assembly site, in accordance with the applicable collective labour agreements and regulations, or with the stipulations provided in the Agreement. Unless otherwise stipulated, the Supplier shall bear all costs for lodging and board.

The Customer's Preparatory Work and Measures

30. The Customer shall carry out all necessary preparatory work according to the drawings, descriptions and directions mentioned in Section 23. The Customer's work, unless otherwise agreed, shall be concluded no later than one week prior to the commencement of Assembly, and so that the foundation and bases can receive the Goods at the stipulated point in time. The Customer shall inform the Supplier by Notice in Writing when the preparations have been completed.
31. The Customer shall ensure that all necessary water and energy requirements, including compressed air and electricity to the requisite extent, or that have been stipulated in the Agreement, are available at the disposal of the Supplier at the Assembly Site prior to the commencement of the Assembly. This shall be prepared at no cost whatsoever to the Supplier, who shall not be required to pay for the use of water or energy.

The Customer shall, at its own expense and on or near the Assembly Site, provide lockable or in some other way protected premises or warehouses that are designed to prevent the theft or damage of the Goods and the Supplier's tools and equipment.

The Customer's Obligation to Notify Delays or Faults

32. Should the Customer find that he cannot fulfil his obligations regarding the preparatory work required for the installation of the Plant within the stipulated time, including his obligations indicated under Sections 29, 30 and 31; or if such a delay seems likely, the Customer shall without delay give the Supplier Notice in Writing of the same. The Customer shall thereby indicate the reasons for the delay, and as far as possible indicate how long the delay will last.
33. If the Customer receives the Goods at the Assembly Site as agreed, the Customer is under obligation to inspect the Goods without delay, and to immediately inform the Supplier via Notice in Writing of any directly visible transport damage.

The Customer's Delays or Faults

Sanctions

34. Should the Customer not fulfil his obligations in due time and in the right manner, including the obligations indicated under Section 32, the Customer shall reimburse the Supplier for any additional costs that he may have to bear in addition to any reimbursements according to Section 43. The Supplier also has the right to a reasonable extension of the delivery time due to the Customer's omission. Should the Supplier request an extension, he must inform the Customer thereof without delay by giving Notice in Writing.

Should the Customer's omission to fulfil his obligations in due time and in the correct manner be of substantial importance, the Supplier has the right

to interrupt all work related to the delivery and assembly until corrective action has taken place, and

to rescind the Agreement by giving Notice in Writing.

However, the right to rescission is conditioned in this case upon the Supplier having informed the Customer by Notice in Writing of his intention to rescind, and that the Customer has not taken corrective action within one month of the date said Notice was received. Upon rescission of the Agreement for this reason, the Supplier is entitled to receive reimbursement for any damage the Customer's omission has caused the Supplier. This reimbursement shall not exceed the Contract Amount.

CONTRACT AMOUNT AND PAYMENT

Contract Amount

35. If the Contract Amount has been determined in a currency other than Swedish Crowns, the Agreement must stipulate the exchange rate for said currency with regard to the Swedish currency.
36. If the Assembly takes places on an ongoing basis and the Assembly has not been completed, the Contract Amount shall, when applying Sections 34, 41 – 43, 59 and 60, consist of the price of the Goods with the addition of 10% or any other percentage agreed upon by the parties.
37. Unless stipulated otherwise, the Contract Amount shall comprise the cost of appropriate packaging and other measures taken to protect the goods from foreseeable damages during transport to and suitable storage at the Customer's premises.

Payment

38. If the Assembly is carried out at a fixed price, the payment shall be made in four instalments on invoice, unless otherwise stipulated. The first instalment shall be made upon entering into the Agreement; the second instalment when the Goods have arrived undamaged at the Assembly Site; and the third instalment when the Supplier, in accordance with Section 48, has informed the Customer that the Plant is ready for acceptance testing. Final payment shall be made when delivery has been made according to Section 53, and takeover has taken place according to Section 55, and any remaining faults have been remedied.

The amounts of the payment instalments shall be stipulated in the Agreement.

Any adjustments and faults still remaining at takeover shall be remedied and final settlement of all outstanding transactions between the parties shall be made no later than 6 months after takeover.

39. Should the Customer be delayed in the manner indicated under Section 34, he shall still be obliged to effect each payment that has been made depending on the Supplier's gradual fulfilment of the Agreement, as if the delay had not occurred.
40. If the Assembly is carried out at a fixed price, the following is not included:
- a) payment for any waiting period due to the assembly work having been obstructed by circumstances for which the Supplier is not responsible according to these general terms or according to the Agreement in itself; nor for
 - b) taxes and fees that are due on the invoiced amount and that are payable by the Supplier.
41. If the Assembly is carried out on an ongoing basis, the price of the Goods shall be invoiced, unless stipulated otherwise, with one third upon entering into the Agreement; one third upon Notice in Writing that the Goods are ready to be delivered from the factory; and one third when the Goods have arrived at the Assembly Site.
42. If the Assembly is carried out on an ongoing basis, the Assembly shall be paid by monthly invoice and the following sections shall be billed separately:
- a) all travelling expenses for the Supplier's staff, as well as all costs for the transport of the staff's tools and personal belongings;
 - b) expenses related to lodging and board and other costs for the subsistence of the Supplier's employees during each day of absence from the place of residence, including non-working days and holidays;
 - c) payment for work during regular working-hours;
 - d) payment for overtime work;

e) payment as for regular working-hours for time spent on:

- necessary preparations for the outward and return journey;
- outward and home journey as well as other journeys that the staff is entitled to according to applicable collective labour agreements in the Supplier's country;
- daily transportation between the lodgings and the Assembly site, in those cases when this transportation exceeds 30 minutes per day.

f) costs that the Supplier incurs for providing equipment according to the Agreement, including reimbursement for the use of the Supplier's own assembly equipment.

Extra Charges Caused by the Customer

43. Should the Assembly work be modified, delayed or at times suspended for reasons for which the Customer or its other suppliers are responsible, the Supplier is entitled, according to Sections 38, 40, 41 and 42 respectively, to compensation in excess of the contractual price for:

- a) waiting periods and time spent on extra travel;
- b) extra work including time spent on dismantling, securing and setting up the assembly equipment once again;
- c) additional costs caused by the Supplier being required to maintain the equipment at the Assembly time longer than predicted;
- d) extra expenses for travel and the subsistence of the Supplier's employees;
- e) other costs and expenses that the Supplier can document as having been incurred by the Supplier due to alterations in the assembly work.

Delayed Payment

44. Should the Customer not make payment in time, the Supplier is entitled to penalty interest from the due date at the interest rate that is applicable according to the Interest Rate Law (1975:635). Should the Customer not make payment in time, the Supplier is furthermore entitled, after having given the Customer Notice in Writing thereof, to suspend his fulfilment of the Agreement until payment has been made.

Should the Customer not have paid three months after the due date, the Supplier is entitled to rescind the Agreement by giving Notice in Writing to the Customer. In this case, the Supplier is also entitled to receive compensation for the damage he suffers, in addition to the penalty interest. However, this reimbursement shall not exceed the Contract Amount.

Actions Upon Suspected Insolvency

45. Should the financial circumstances of the Customer appear to be such that there are strong reasons to suppose that payment will not be made in due time, the Supplier is entitled to suspend his fulfilment of the Agreement until the Customer provides sufficient security. If the Customer does not provide this without delay, the Supplier may rescind the Agreement.

ACCEPTANCE TESTS, TRIAL RUNS AND TAKEOVER

Acceptance Tests

46. When the assembly has been completed and the Supplier has concluded his part in starting-up and trimming the Plant, it shall be subjected to acceptance testing in collaboration with the Customer and, if needed, one or more of the parties' sub-contractors or other suppliers, with the purpose of determining whether the Plant fulfils the contractual function requirements and other conditions.

The acceptance testing shall take place according to the technical specification and testing procedures stipulated in the Agreement. Should said stipulations not exist, the acceptance testing shall be carried out in accordance with the practice that is followed for checking the function of graphic goods and graphic installations of a similar nature.

Acceptance Testing Setup and the Obligations of the Parties

47. Acceptance testing shall be carried out under the direction of the Supplier. The Supplier shall take minutes during the testing. These minutes shall be submitted to the Customer within the time frame agreed upon by the parties, or otherwise without any undue delay. Unless the Customer indicates otherwise, these minutes shall be deemed to give a correct description of how the acceptance testing was carried out and its results.

The Customer shall, free of charge, provide all necessary power, fuel, lubricants, water, raw material and other materials that are necessary to perform the acceptance testing and final adjustments in connection with such testing, as well as install the equipment and make available the manpower that is required to carry out the testing.

Performing the Acceptance Testing

48. The Supplier shall give the Customer Notice in Writing indicating that the Plant is ready for acceptance testing, and provide a reasonable time frame within which the testing shall be performed. The parties shall thereafter agree upon a time for the test. Unless stipulated otherwise, testing shall take place during the Customer's regular working hours.

49. Should the Customer be prevented from attending the acceptance testing on the agreed date, or if the Customer does not fulfil his obligations under the second paragraph of Section 47 and thereby impedes the performance of the test, the Supplier shall give the Customer Notice in Writing indicating a new test date. The Customer is thereby entitled to a reasonable time period before testing is performed.

Should the Customer fail to attend the newly appointed testing date, the acceptance testing may then be performed in the Customer's absence. The Supplier is then entitled to summon an impartial expert to be present during the testing, at the expense of the Customer.

Should the acceptance testing not be performed due to the Customer having failed to fulfil his obligation under the second paragraph of Section 47 after having received the Supplier's message according to the second paragraph of this Section; then a satisfactory acceptance test shall be deemed completed by the end of the time frame that the Supplier indicated in his Notice.

Corrective Action After Acceptance Testing and New Acceptance Tests

50. Should the acceptance test indicate that the condition of the Plant is not in conformity with the Agreement, the Supplier shall promptly ensure that it is made to conform with the Agreement. A new acceptance test shall then take place, unless both parties agree in writing to refrain from additional testing, or if the deviation is of little consequence for the performance and operation of the Plant.

In the case of new acceptance tests, Sections 46 – 49 shall apply where applicable.

Trial Run

51. After acceptance testing has been performed and the necessary minor adjustments and supplements have been made, the Customer is entitled, notwithstanding the prohibition in Section 56, to place the Plant in service for a trial run for a maximum of two weeks, before Delivery takes place according to Section 53, unless another time period has been stipulated in the Agreement or thereafter agreed upon in writing. The request for a trial run shall be submitted to the Supplier no later than when the Supplier notifies the Customer about the acceptance testing according to the first paragraph of Section 48.

During the trial run period, the Customer shall carefully adhere to the instructions in manuals and other guidelines for operating the Plant, as well as the specific instructions that the Supplier has provided for the trial run.

The Customer shall be liable for all own and external costs related to the trial run. On his part, the Supplier is entitled to inspect the Plant during the trial run period in the equivalent manner stipulated under Section 28 with regard to the inspection at the Assembly site.

52. Should it become evident during the trial run period that the condition of the Plant is not in conformity with the Agreement, then the terms stipulated in the first sentence of Section 50 shall apply.

Delivery and Takeover

53. Delivery shall take place no later than on the date determined in the Agreement; or, when applicable, when the trial run has been completed and any remaining faults have been remedied. However, minor adjustments and supplements that are of little consequence for the operation of the Plant may be deferred and shall not impede the delivery from taking place.

Should the parties have agreed upon a period of time within which delivery shall take place, instead of delivery on a specific date, said period shall commence from the date of entering into this Agreement.

Should the parties have agreed that no acceptance testing shall take place, and the Customer does not request a trial period, then delivery shall take place after an agreement in writing in connection with the Supplier informing the Customer via Notice in Writing that the Plant is ready for delivery.

54. The Supplier is entitled to postpone delivery if the Customer has not fulfilled his payment obligations according to Sections 38 – 43.
55. Once delivery takes place, the Customer shall be considered to have taken possession of the Plant. Takeover – or taking possession – means that the Customer, with those restrictions which result from the rights of third parties and of any remaining obligations to the Supplier, has acquired the right of disposition of the Plant and can thereby put it in full operation. Furthermore, the takeover signifies that the risk for the Plant – as well as the liability for any material damage – passes over to the Customer; and also that the Supplier's function warranty begin to apply according to Sections 63 – 66.

Until the time that the Customer has made payment in full, the Customer's right of disposition of the Plant after takeover is limited, insofar as that the Plant may not be changed without the consent of the Supplier by Notice in Writing, and that it is incumbent upon the Customer to care for the Plant in the interest of the Supplier.

Operation Without Consent

56. Prior to takeover, the Customer does not have the right to put the Plant or any part of the same into operation without the consent of the Supplier by Notice in Writing. Should this take place nevertheless, the Customer's right to acceptance testing shall be waived. The Customer shall be deemed to have taken possession of the Plant by putting it in operation.

THE SUPPLIER'S LIABILITY FOR DELAYS

Obligation to Notify

57. Should the Supplier find that he cannot finish the Plant in due time, or if a delay on the part of the Supplier appears to be likely, the Supplier shall without delay inform the Customer of this fact by Notice in Writing, and thereby indicate the reason for the delay, and as far as possible, indicate the point in time that the Plant will be ready for takeover.

Should the Supplier omit to give such notification, the Supplier shall reimburse the Customer, regardless of the stipulations under Sections 59 and 60, for any extra expenses that the Customer may have incurred and that the Customer would have avoided if the notification had been received in time.

Extension of the Delivery Time

58. The delivery time shall be extended as much as is reasonable considering the circumstances at hand, should the takeover according to Section 50 be delayed due to:
- a) circumstances that according to Section 80 constitute grounds for relief; or
 - b) any action or omission on the part of the Supplier or any of the Supplier's other suppliers, for example if a supplier has suspended the fulfilment of his contractual obligations according to Sections 22, 30 and 31; or
 - c) modifications according to Sections 5 and 10 – 13.

The extension shall apply even if the reason for the extension occurs after the originally stipulated point in time for the takeover.

Sanctions for Delays

Penalties

59. Should the Plant not be taken into possession in due time according to Section 53, the Customer is entitled to penalties from the date on which the takeover should have taken place. The penalty consists of 0.5% of the Contract Amount for each full week of delay. The penalty shall not exceed 7.5% of the Contract Amount.

The penalty shall be payable upon request by Notice in Writing from the Customer, yet no earlier than when the Plant has been taken over or at the time of rescission according to Section 60.

However, the Customer forfeits the right to receive penalties, if the Customer does not

present this request by Notice in Writing within six months after the date when the takeover should have taken place.

Performance, Price Reductions, Rescission and Damages

60. Should the Customer be entitled to the maximum penalty according to Section 59 and the Plant has not yet been taken over, the Customer has the right to demand by Notice in Writing that the Plant be completed for acceptance testing within a final reasonable time frame, that may not be less than one week.

If the Supplier does not finish the Plant within this deadline, and if this is not due to circumstances for which the Customer or any of the Customer's other suppliers are responsible, the Customer may demand a price reduction or rescind the Agreement by Notice in Writing to the Supplier.

Upon rescission according to the second paragraph, the Customer is entitled, in addition to the penalty, to receive compensation for the damage that the Customer has suffered due to the delay of the Supplier, to the extent that the damage exceeds the maximum penalty that the Customer could demand according to Section 59. However, this compensation shall not exceed 7.5% of the Contract Amount.

The Customer may furthermore rescind the Agreement by Notice in Writing to the Supplier, if it is evident that there will be a delay that would entitle the Customer to both the maximum penalty according to Section 59, as well as compensation for damages according to the third paragraph above in this Section.

Limitation of Liability for Delays

61. Apart from penalties according to Section 59, price reductions and rescission with limited compensation according to the third paragraph of Section 60, any demands from the Customer owing to the Supplier's delay are excluded. However, this limitation in the liability of the Supplier does not apply if the Supplier has been guilty of gross negligence.

Actions Upon Suspected Inability to Deliver

62. Should the financial circumstances of the Supplier appear to be such that there are strong reasons to suppose that the Supplier will not be able to fulfil the Agreement, the Customer is entitled to withhold payment until the Supplier provides sufficient security. If the Supplier does not provide this without delay, the Customer may rescind the Agreement.

THE SUPPLIER'S LIABILITY FOR FAULTS

The Scope of Liability

63. The Supplier is liable, in accordance with the stipulations of Sections 64 – 75, to remedy all faults in the Plant, either via replacement or repair, that are due to defectiveness in its construction, material or work or shortcomings in the instructions on behalf of the Supplier.
64. The liability of the Supplier according to Section 63, does not include faults that are due to materials provided by the Customer; nor any construction ordained or specified by the Customer but not approved by the Supplier through Notice in Writing; nor any incorrectly performed preparatory work by the Customer according to Section 30.

Nor does the extent of the Supplier's liability include faults caused by circumstances that have occurred after the Plant was taken over in accordance with Section 50: for example, it does not include faults that occur as a result of the fact that the working conditions stipulated in the Agreement have not been fulfilled or by the incorrect use of the Plant. Furthermore, the liability does not cover faults due to negligent maintenance or incorrect assembly on the part of the Customer; modifications made without the consent of the Supplier by Notice in Writing; nor to repairs performed incorrectly by the Customer.

Normal wear and tear or deterioration is not considered a fault.

Duration of the Warranty

65. Unless otherwise agreed, the Supplier's liability shall only cover faults that appear within one year from the date on which the Plant was taken over according to Section 55. If the Plant is used more intensively than agreed upon, the duration of the warranty shall be reduced correspondingly.
66. For those parts of the Plant that have been exchanged or repaired according to Section 63, the Supplier shall maintain the same liability as for the original Plant for the duration of one year. For all other parts of the Plant, the aforementioned duration of the warranty in Section 65 shall only be extended for the period of time that the Plant was unable to be used due to faults indicated under Section 63.

Claiming Faults

67. The Customer shall file a complaint for faults by Notice in Writing to the Supplier without undue delay after the fault has appeared, and in no case later than two weeks after the expiration of the duration of the liability that is determined in Sections 65 and 66, respectively.

The complaint shall contain a description of how the fault manifests itself. Should the Customer not file the complaint in writing within the time limits indicated in the first paragraph, the Customer shall lose the right to file any claims due to said fault.

If there is reason to assume that the fault can entail risks of further damage, the complaint must be made without delay. Should a complaint not be presented in this case without delay, the Customer loses the right to file any claims for damage that occurs and that could have been avoided if said complaint had been filed.

Remedying Faults

68. Once the Supplier has received a complaint by Notice in Writing according to Section 67, the Supplier shall remedy the fault with the urgency that the circumstances require. All remedies within this time frame shall take place at such a time and be carried out so that the Customer's operations are not disturbed more than necessary. The Supplier shall bear the costs of remedying faults according to the rules under Sections 63 – 76.

The remedies shall be carried out where the Plant is located, regardless of whether this is a location other than the Assembly Site, unless the Supplier deems it fitting that the faulty part or the Goods are sent to the Supplier for repair or replacement.

Should the dismantling and refitting of the part require particular expertise, the Supplier is liable to perform the dismantling and refitting. Should no such expertise be required, the Supplier will have fulfilled his obligations owing to the fault when the Supplier delivers a faultless, repaired or replaced part to the Customer.

69. Should remedies according to Section 68 be performed on the site where the Plant is located, then the stipulations described in Sections 22, 27 – 29 and 78 shall apply.

Unfounded Complaints

70. Should the Customer file a complaint according to Section 67, and it transpires that there is no fault for which the Supplier is liable, the Supplier is entitled to compensation for the work and expenses that the complaint may have caused him.

Distribution of Remedy Costs

71. If the remedy of faults entails any intrusion in anything other than the Plant, the Customer shall be responsible for the labour and costs that the intrusion may have entailed.
72. All transportation in connection with repairs or replacement shall take place at the risk and cost of the Supplier. The Customer shall follow the Supplier's instructions regarding how the transportation should be carried out.

If the Plant is located in a location other than the Assembly Site, the Customer shall bear the extra expenses for remedying faults that this may cause the Supplier.

73. Faulty parts that are replaced in accordance with Section 63 shall be placed at the disposal of and become the property of the Supplier. However, the Supplier is obliged to make these parts available in case of any dispute.

Sanctions for Inadequate Remedy

74. Should the Supplier not fulfil his obligations according to Section 68 within reasonable time, the Customer may, by Notice in Writing, give the Supplier a final time frame to fulfil these obligations. If the Supplier does not fulfil his obligations within this time frame, the Customer then has the choice to either:

a) have the necessary repairs performed and/or new parts produced at the risk and expense of the Supplier, provided that the Customer proceeds with good judgement;
or

b) demand a price reduction of no more than 15% of the Contract Amount.

If the fault is substantial, the Customer may instead rescind the Agreement by giving Notice in Writing to the Supplier. The Customer is also entitled to such rescission if the fault after the remedy mentioned in the first paragraph under a) still remains substantial. Upon rescission, the Customer is entitled to compensation for damages suffered. However, this compensation shall not exceed 15% of the Contract Amount.

Time Bar on Liability for Faults in the Plant

75. Regardless of the stipulations under Sections 63 – 74, the Supplier does not have any liability for faults in any parts or portions of the Plant for longer than two years from the date of takeover according to Section 55.

Limitation of Liability for Damages

76. The Supplier does not have any liability for faults beyond what is provided under Sections 63 – 75. This applies to any kind of loss that the fault or intervention may cause, such as loss of production, missing profits and other types of consequential economic losses. However, this limitation in the liability of the Supplier does not apply if the Supplier has been guilty of gross negligence.

LIABILITY FOR MATERIAL DAMAGES PRIOR TO TAKEOVER

Damage to the Plant

77. The Supplier is liable for any damage to the Plant that occurs before the risk according to Section 55 has passed over to the Customer. This applies regardless of the cause of the damage, unless the damage was caused by the Customer or by someone that the Customer is responsible for. Even if the Supplier according to this Section is not liable for the damage, the Customer has the right to demand that the Supplier remedies the damage at the Customer's expense.

Damage to the Customer's Property

78. The Supplier is only liable for any damage to the Customer's property prior to the takeover of the Plant if said damage is proven to have been caused by negligence on behalf of the Supplier, or someone for whom the Supplier is responsible in connection with the fulfilment of the Agreement. However, the Supplier shall in no case be liable for any loss of production, missing profits and other types of consequential economic losses.

LIABILITY FOR MATERIAL DAMAGE CAUSED BY THE PLANT AFTER TAKEOVER

79. The Customer shall indemnify the Supplier to the extent that liability to a third party is imposed upon the Supplier for any damage or loss that the Supplier is not liable to the Customer for, according to the second and third paragraphs in this Section. The Supplier is not liable for any damage that the Plant may cause after the takeover:
- a) to any fixed or movable property, or the consequences of such damage if the damage occurs when the Plant is in the Customer's possession; or
 - b) to products produced by the Customer or on products in which the Customer's products are included.

However, these limitations in the liability of the Supplier do not apply if the Supplier has been guilty of gross negligence.

80. Should a third party present a claim against the Supplier or the Customer claiming compensation for damage or loss as mentioned in Section 79, the other party shall immediately be informed thereof by Notice in Writing.

The Supplier and the Customer are liable to allow themselves to be summoned to any court or arbitration board that is processing any claims for compensation against either one of them, if the claim is based on damage or loss that is alleged to be caused by the Plant. Nevertheless, the mutual liability relationship between the Customer and the Supplier shall always be determined as a final resort by arbitration according to Section 85.

GROUNDS FOR RELIEF (FORCE MAJEURE)

81. Should a party be prevented from fulfilling the Agreement due to circumstances beyond his control, and which were not reasonably foreseeable when the Agreement was concluded, and where the consequences of such circumstances could not reasonably have been avoided or overcome; or that the subcontractor of such party was prevented from fulfilling his delivery due to circumstances referred to here; this shall constitute a case of relief which entails the postponement of the date of performance and relief from penalties and other sanctions. This applies regardless of whether the cause of the delay occurs before or after the agreed delivery date.

If fulfilment of the Agreement is substantially prevented for a period of time longer than 3 months due to certain circumstances mentioned above, either party is entitled to withdraw from the Agreement in writing without obligation to pay compensation.

Should any one party find that circumstances as mentioned in the first paragraph exist, then the other party shall be informed of this by Notice in Writing without delay.

ASSIGNMENT OF THE AGREEMENT

82. Neither the Supplier nor the Customer has the right to assign the Agreement without the approval of the other party by Notice in Writing. The following exceptions apply to this case:

a) The Supplier is entitled to transfer the right to receive payment according to the Agreement without the consent of the Customer, provided that the Supplier's obligations to the Customers remain unchanged.

b) The Customer has the right to finance the acquisition of the Plant through leasing companies approved by the Supplier; and in such case, relevant parts of the Agreement shall thereafter continue to apply unaltered between the leasing companies/Customer and the Supplier.

c) The Customer and Supplier are entitled to assign the Agreement without the approval of the other party to another company within an organization or group of companies of which the party formed a part of at the time the Agreement was concluded, or may later form a part of. This applies in a corresponding manner to government and municipal organizations.

If, upon assignment of the Agreement according to a), b) and c) above, the new party should fail to fulfil the obligations pursuant to the Agreement, the original party shall be responsible for fulfilment of the obligations.

APPLICABLE LAW

83. Disputes with regard to the Agreement shall be determined according to Swedish law

INTERPRETATION AND DISPUTES

84. The Graphic Council (*Grafiska Nämnden*), established by the Graphic Art Suppliers' Association (*Grafiska Leverantörsföreningen*), the Graphic Companies' Federation (*Grafiska Företagens Förbund*) and the Swedish Newspaper Publishers' Association (*Svenska Tidningsutgivareföreningen*), shall hear and upon request give an advisory opinion regarding any technical and legal issues that may arise in connection with the marketing, delivery and use of products for graphic production.

As a part of this operation, and upon request by one of the parties, the Graphic Council will hear and issue a recommendation, based on the general terms of the ALV 05, on how a dispute between the Supplier and the Customer regarding the interpretation and application of the Agreement and the therewith connected legal aspects should best be settled.

ARBITRATION

85. Any disputes with regard to this Agreement that have not been resolved in the manner indicated in the second paragraph of Section 84, shall be settled through arbitration pursuant to the Rules for Expedited Arbitration according to the Arbitration Institute of the Stockholm Chamber of Commerce.

If so requested by one of the parties, the Graphic Council shall be given the opportunity to give an expert opinion in the matter.