

# Standard Conditions of Contract

**1. Applicable Terms** Except as otherwise specifically agreed in writing by Banbury Litho Limited("the Printer") any order accepted by the Printer shall be governed by only these conditions. Any other terms provisions conditions or warranties stipulated by a Customer which are in rejection of, in addition to, or inconsistent with these conditions and any others agreed to in writing by the Printer shall be deemed to be a counter-offer to the Printer and shall not be binding upon the Printer save as agreed in writing by the Printer. If the Printer rejects or does not accept such counter-offer then such rejection or non-acceptance shall be deemed to be a renewed offer to proceed on these conditions and any others so agreed by the Printer and accordingly performance by the Printer shall in such event be deemed to be so governed.

**2. Preliminary work** All work carried out, whether experimentally or otherwise, at customer's request shall be charged.

**3. Copy** A charge may be made to cover any additional work involved where copy supplied is not clear and legible.

**4. Proofs** Proofs of all work may be submitted for customer's approval and the Printer shall incur no liability for any errors not corrected by the Customer in proofs so submitted. Customer's alterations and additional proofs necessitated thereby shall be charged extra. When style, type or layout is left to the printer's judgement, changes therefrom made by the Customer shall be charged extra.

**5. Prices** The price of all goods supplied or work done under the contract does not include the cost of cases or packing materials or packing or loading for shipment. All prices are ex works Vantage Business Park and are exclusive of Value Added Tax which will be charged at the rate applicable at the date of invoice. Packing materials are not returnable. The Printer reserves the right at any time prior to delivery of the goods to adjust the price to take account of any increase in the costs to the Printer of materials, taxes, labour or services or transport or of any currency fluctuations which increases the costs to the Printer of goods imported into the United Kingdom. In the case of small orders the Printer is entitled to make a minimum order charge or/and a surcharge.

## 6. Delivery and Payment

6.1 Delivery of work shall be accepted when tendered and thereupon or, if earlier, on notification that the work has been completed the ownership shall pass and payment shall become due.

6.2 Unless otherwise specified, the price quoted is for delivery of the work to the Customer's address as set out in the estimate. A charge may be made to cover any extra costs involved for delivery to a different address.

6.3 Should expedited delivery be agreed an extra may be charged to cover any overtime or any other additional costs involved.

6.4 Should work be suspended at the request of or delayed through any default of the Customer for a period of 30 days the printer shall then be entitled to payment for work already carried out, materials specially ordered and other additional costs including storage.

**6.5 UK Orders** All accounts are payable on demand and are strictly net. If no demand is made, then all accounts must be paid within 30 days of invoice date. If at the date on which the Printer is ready to deliver the goods the Customer delays delivery for any reason, the Printer may present invoices for full settlement within 30 days of that date. In default of payment and without prejudice to any other rights or remedies the Printer reserves the right to demand payment of all outstanding balances whether or not due and/or cancel all outstanding orders. Interest shall be charged on outstanding balances at the rate of 2% per month or part thereof. The Customer shall not be entitled to withhold or set-off payment for goods delivered or work done for any reason whatsoever.

**6.6 Export Orders** In the case of export orders, Clause 6.5 hereof shall apply except that payment shall be in pounds sterling through a Prime London Bank on presentation of shipping documents unless otherwise agreed in writing signed by one of the Printer's directors.

**7. Variations in quantity** Every endeavour will be made to deliver the correct quantity ordered, but estimates are conditional upon margins of 5 per cent for work in one colour only and 10 per cent for other work being allowed for overs or shortage (4 per cent and 8 per cent respectively for quantities exceeding 50,000) the same to be charged or deducted.

**8. Periodical Publications** A contract for the printing of a periodical publication may not be terminated by either party unless 13 weeks' notice in writing is given in the case of periodicals produced monthly or more frequently or 26 weeks' notice in writing is given in the case of other periodicals. Notice may be given at any time but wherever possible should be given after completion of work on any one issue. Nevertheless the Printer may terminate any such contract forthwith should any sum due thereunder remain unpaid.

**9. Risk** The risk in respect of all goods supplied under the contract shall pass to the Customer upon the delivery of the goods which shall be ex works, but notwithstanding such delivery, the property in the goods shall not pass to the Customer except as provided in Clause 10.

## 10. Title Retention

10.1 Until the purchase price of the goods or work comprised in this or any other contract between the Printer and the Customer and all other sums whatsoever which are or shall become outstanding from the Customer to the Printer shall have been paid or satisfied in full (and if by cheque, then only upon clearance):

10.1.1 The property in the goods comprised in this contract remains vested in the Printer (notwithstanding the delivery of the same the passing of the risk therein).

10.1.2 The Customer shall store the goods in such a way that they can be readily identified as being the Printer's property.

10.1.3 The Customer shall on request inform the Printer of the precise location of each item of the goods identified where applicable by its serial number, by supplying the Printer at its expense within seven days of its request with a written schedule of the said locations.

10.1.4 The Customer may sell the goods in the normal course of its business and may pass good title to its customer being a bona fide purchaser for value without notice of the Printer's rights on the following conditions;

10.1.4.1 The Printer shall be entitled, immediately as a result of its ownership of the goods, to the beneficial ownership of the proceeds of such sale which the Customer shall accordingly hold as fiduciary for the Printer;

10.1.4.2 The Customer shall account to the Printer on demand with the said proceeds of sale provided that no such demand shall be made by the Printer in the absence of its having reasonable cause to believe that the Customer might default in making payment for the goods on the terms contained herein;

10.1.4.3 The Printer shall be entitled to make a claim directly against the Customer's customer for any purchase monies unpaid by such customer provided that no such claim shall be made by the Printer in the absence of its having reasonable cause to believe that the Customer might default in making payment for the goods on the terms contained herein;

10.1.4.4 The Printer may at any time revoke the Customer's said power of sale in the circumstances set out in Clause (17) of these conditions;

10.1.4.5 The Customer's power of sale shall automatically cease in any of the circumstances set out in Clause (17) of these conditions;

10.1.4.6 The Customer shall notify the Printer without delay of any attachment of the goods or actions by third parties which might infringe the Printer's title to the goods.

10.1.5 Upon determination of the Customer's power of sale the Printer shall be entitled by itself its servants or agents to enter upon any of the Customer's premises for the purpose of removing and repossessing such goods or their proceeds of sale and the Printer shall be entitled to claim from the Customer the costs and expenses incurred by the Printer in and ancillary to the process of such removal and repossession.

10.1.6 Until title in the goods has passed to the Customer, the Customer shall not purport to be the owner of the goods and shall not show the goods as stock in its accounts.

10.1.7 The Customer shall insure the goods against theft or any damage howsoever caused until their price has been paid or until sale, whichever shall first occur and the Printer shall be entitled to call for details of the insurance policy.

10.1.7.1 If the Customer shall not insure the goods or shall fail to supply details of its insurance policy on demand to the Printer then the Customer shall reimburse the Printer for the cost of any insurance which it may reasonably arrange in respect of any goods during the whole or any part of the period from the date of its delivery of the goods until the date of payment to it of their full purchase price.

10.2 Nothing in these conditions shall: 10.2.1 Entitle the Customer to return the goods or to delay payment thereof; or

10.2.2. Constitute or be deemed to have constituted the Customer as the Printer's agent; or

10.2.3 Render the Printer liable to any third party for any unauthorised representative or warranty made or given by the Customer to such third party in relation to the goods; or

10.2.4 Prevent the Printer from maintaining an action for the price notwithstanding that the property in the goods may not have passed to the Customer.

**11. Incomplete or Damaged Delivery** Advice of damage, delay or partial loss of goods in transit or of non-delivery must be given in writing to the Printer and the carrier within three clear days of delivery (or, in the case of non-delivery, within 28 days of despatch of the goods) and any claim in respect thereof must be made in writing to the Printer and the carrier within seven clear days of delivery (or, in the case of non-delivery, within 42 days of despatch). All other claims must be made in writing to the Printer within 28 days of delivery. The Printer shall not be liable in respect of any claim such unless the aforementioned requirements have been complied with except in any particular case where the Customer proves that (i) it was not possible to comply with the requirements and (ii) advice (where required) was given and the claim made as soon as reasonably possible.

11.2 The work sold by the Printer shall upon delivery thereof or at the latest within 14 days after delivery thereof be inspected by the Customer. The Customer shall lodge with the Printer in writing any claims in respect of defective work within 7 days after the conclusion of the said inspection and testing. The Printer shall not be liable in respect of any claim unless the aforementioned requirements have been complied with except in any particular case where it was not possible for the Customer (using his best endeavours) to comply with the above requirements).

11.3 The Printer shall make good either by correction or replacement or renewal at its option defects which under proper storage and use appear in the work of which notice has been given to the Printer within the time limits and in the manner set out in sub-clause 11.2 above and which arise solely from faulty material or workmanship provided that:-

11.3.1 The Customer promptly allows the Printer full access and facilities for examination by the Printer or his agent of such work. In the event that the Customer shall not agree the Printer's findings on such examination either party may refer the matter to an expert appointed by the British Printing Industries Federation, whose opinion shall be accepted by both parties.

11.3.2 The Customer shall pay to the Printer the reasonable cost of any examination of such work as a result of which the Printer shall not be liable under the terms hereof.

11.4 The Printer's liability under Clause 11.3. hereof shall be in lieu of any warranties and conditions whether express or implied by statute common law or otherwise however, which warranties and conditions and hereby expressly excluded.

11.5 WITHOUT PREJUDICE TO THE GENERALITY OF THE FOREGOING, NOTHING HEREIN CONTAINED SHALL OPERATE TO EXCLUDE ANY WARRANTY OR CONDITION IMPLIED BY STATUTE IN THE EVENT OF THE CUSTOMER DEALING AS A "CONSUMER" AS DEFINED BY SECTION 12 OF THE UNFAIR CONTRACT TERMS ACT 1977. IN SUCH A CASE THE CUSTOMER'S STATUTORY RIGHTS ARE UNAFFECTED BY THESE TERMS AND CONDITIONS.

11.6 Save as aforesaid and save in respect of death or personal injury resulting from the negligence of the Printer its servants or agents, the Printer shall not be liable for any claim or claims for director indirect consequential or incidental injury loss or damage made by the Customer against the Printer whether in contract or tort (including negligence on the part of the Printer its servants or agents) arising out of or in connection with any defect in the work or any act, omission, neglect or default (whether or not the same constitutes a fundamental breach of the contract or breach of a fundamental term thereof) of the Printer its servants or agents in the performance of the contract.

11.7 The Customer accepts as reasonable that the Printer's total liability for any goods or work which is defective shall be as set out in these conditions: in fixing that limit the Printer has had regard to the contract price of the goods or work, the nature of the goods or work, the use to which it will be put, and the resources available to each party including insurance cover, to meet any liability.

## 12. Insurance

12.1 The Customer shall insure the work from the date of its delivery to him until its title has passed to him and the Printer shall be entitled to call for details of the insurance policy.

12.2 If the Customer shall not insure the work or shall fail to supply details of its policy on demand to the Printer then the Customer shall reimburse the Printer for the cost of any insurance which the Printer may reasonably arrange in respect of any of the work during the whole or any part of the period from the date of the Printer's delivery of the work until the date of payment to the Printer of the price.

**13. Sub Contracting** The Printer reserves the right to sub-contract the fulfilment of the order (including the installation) or any part thereof.

## 14. Standing material

14.1 Metal, film, glass and other materials owned by the Printer and used by him in the production of type, plates, moulds, stereotypes, electrotypes, film-setting, negatives, positives and the like shall remain his exclusive property. Such items when supplied by the customer shall remain the customer's property.

14.2 Type may be distributed and lithographic, photogravure or other work effaced immediately after the order is executed unless written arrangements are made to the contrary. In the latter event, rent may be charged.

## 15. Customer's property

15.1 Except in the case of a Customer who is not contracting in the course of a business nor holding himself out as doing so, Customer's property and all property supplied to the Printer by or on behalf of the Customer shall while it is in the possession of the Printer or in transit to or from the Customer be deemed to be at Customer's risk unless otherwise agreed and the Customer should insure accordingly.

15.2 The Printer shall be entitled to make a reasonable charge for the storage of any Customer's property left with the Printer before receipt of the order or after notification to the Customer of completion of the work.

## 16. Materials supplied by the Customer

16.1 The Printer may reject any paper, plates or other materials supplied or specified by the Customer which appear to him to be unsuitable. Additional cost incurred if materials are found to be unsuitable during production may be charged except that if the whole or any part of such additional cost could have been avoided but for unreasonable delay by the Printer in ascertaining the unsuitability of the materials then that amount shall not be charged to the customer.

16.2 Where materials are so supplied or specified, the Printer will take every care to secure the best results, but responsibility will not be accepted for imperfect work caused by defects in or unsuitability of materials so supplied or specified.

16.3 Quantities of materials supplied shall be adequate to cover normal spoilage.

**17. Insolvency** If the Customer ceases to pay his debts in the ordinary course of business or cannot pay his debts as they become due or being a company is deemed to be unable to pay its debtors shall a winding-up petition issued against him, the Printer without prejudice to other remedies shall

17.1 have the right not to proceed further with the contract or any other work for the Customer and be entitled to charge for work already carried out (whether completed or not) and materials purchased for the Customer, such charge to be an immediate debt due to him, and

17.2 in respect of all unpaid debts due from the Customer have a general lien on all goods and property in his possession (whether worked on or not) and shall be entitled on the expiration of 14 days' notice to dispose of such goods or property in such manner and at such price as he thinks fit and to apply the proceeds towards such debts.

## 18. Illegal matter

18.1 The Printer shall not be required to print any matter which in his opinion is or may be of an illegal or libellous nature or an infringement of the proprietary or other rights of any third party.

18.2 The Printer shall be indemnified by the Customer in respect of any claims, costs and expenses arising out of any libellous matter or any infringement of copyright, patent, design or any other proprietary or personal rights contained in any material, printed for the Customer. The indemnity shall extend to any amounts paid on a lawyer's advice in settlement of any claim.

**19. Force majeure** The Printer shall be under no liability if he shall be unable to carry out any provision of the contract for any reason beyond his control including (without limiting the foregoing) Act of God, legislation, war, fire, flood, drought, failure of power supply, lock-out, strike or other action taken by employees in contemplation of furtherance of a dispute or owing to any inability to procure materials required for the performance of the contract. During the continuance of such a contingency the customer may by written notice to the printer elect to terminate the contract and pay for work done and materials use, but subject thereto shall otherwise accept delivery when available.

**20. Law** These conditions and all other express terms of the contract shall be governed and construed in accordance with the laws of England.