

Terms and Conditions of Sales

1. INTERPRETATION

In these Conditions the following words and phrases shall have the following meanings:-

- Buyer:** the person, firm or company who purchases the Goods from the Seller
- Contract:** the contract between the Buyer and the Seller for the purchase and sale of the Goods, incorporating these conditions
- Goods:** the goods which the Seller is to supply to the Buyer in accordance with the Contract
- Seller:** Universal Printing Corporation Limited trading as The Printing House

- 1.1 Any reference to a statutory provision is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.2 Words in the singular include the plural and in the plural include the singular.
- 1.3 Headings are for ease of reference only and shall not affect the interpretation of these conditions.

2. APPLICATION OF TERMS

- 2.1 The Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.2 No variation to the Contract shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.
- 2.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing so that in entering the Contract the Buyer acknowledges that it does not rely on and waives any claim for breach of any such representations which are not so confirmed.

3. ORDERS

- 3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller's authorised representative.
- 3.2 The Goods are not tested and sold as fit for any particular purpose and any term, warranty or condition express, implied or statutory to the contrary is excluded to the fullest extent allowed in law.
- 3.3 No order may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of any preliminary work carried out at the Buyer's request, all labour and material used), damages, charges and expenses incurred by the Seller as a result of cancellation and against any claims or actions arising out of such cancellation.
- 3.4 Where the Buyer cancels an order without the agreement in writing of the Seller, and such cancellation does not result from the fault of the Seller, the Seller shall be entitled to charge 50% of the price of the Goods to the Buyer and to retain that sum from any monies received from the Buyer.
4. In discretionary cases, the management may issue a credit note for the full deposit payment received to be set against a future print order.

5. PRICE OF THE GOODS

- 5.1 The price of the Goods shall be the price quoted to the Buyer by the Seller in or at the time of the order. However, the Seller reserves the right by giving notice in writing to the Buyer at any time before delivery to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller or additional work which the Seller has to carry out at the Buyer's request or as a result of illegible or incorrect copy or disks supplied to it by the Buyer.
- 5.2 Unless otherwise agreed by the Seller in writing, the price for the Goods is exclusive of any applicable value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which the Buyer shall be additionally liable to pay to the Seller.

6. **TERMS OF PAYMENT**

- 6.1 Subject to any special terms agreed in writing between the Buyer and the Seller, the Buyer shall pay the price of the Goods in full immediately upon receipt of the Seller's invoice.
- 6.2 If the Buyer fails to make any payment on the due date then without prejudice to any other right or remedy available, the Seller shall be entitled to:
- 6.2.1 cancel the Contract or suspend any further deliveries to the Buyer under the Contract;
 - 6.2.2 immediate payment of all sums outstanding in respect of the Goods supplied under the Contract and all other goods under any other contract notwithstanding the fact that the date for payment may not yet have fallen due;
 - 6.2.3 charge the Buyer interest (both before and after any judgment) on the amount unpaid at the rate of 8 per cent per annum above the Bank of England base rate from time to time until payment in full is made; and
 - 6.2.4 receive from the Buyer a sum equivalent to any bank charges, legal costs or other costs, charges or expenses incurred by the Seller arising from the late payment or recovery of sums due from the Buyer.
- 6.3 In addition to any right of lien to which it may be by law entitled the Seller shall be entitled to a general lien on all property of the Buyer in the possession of the Seller for all sums due from the Buyer to the Seller provided that the Seller shall not be liable for loss of or damage to the Buyer's property in the Seller's possession either as a result of the exercise by the Seller of its lien or otherwise.

7. **PROOFS**

- 7.1 Prior to delivery of the Goods, the Seller may submit a proof of the proposed Goods for approval by the Buyer. The Seller shall incur no liability to the Buyer in respect of any errors in the proof submitted to the Buyer which are not corrected by the Buyer prior to delivery of the Goods.
- 7.2 The Buyer must submit any corrections to the proof in writing to the Seller. The Seller will accept corrections to the proof by telephone initially, provided such corrections are confirmed in writing immediately. The Seller shall incur no liability to the Buyer for any errors which may arise as a result of corrections to the proof notified by telephone but not confirmed in writing.

8. **DELIVERY**

- 8.1 Delivery of the Goods shall be made by the Buyer's collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer in writing that the Goods are ready for collection or, if some other place for delivery is agreed, by the Seller delivering the Goods to that place.
- 8.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused so that time for delivery shall not be of the essence unless previously agreed by the Seller in writing.
- 8.3 The Seller reserves the right to deliver the following quantities of Goods and the quantity so delivered shall be deemed to be the quantity ordered, without any adjustment in the price:
- 8.3.1 where work is in one colour only – up to 5% more or 5% less than the quantity ordered (4% more or 4% less where the quantity exceeds 50,000); or
 - 8.3.2 for all other work – up to 10% more or 10% less than the quantity ordered (8% more or 8% less where the quantity exceeds 50,000).
- 8.4 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 8.5 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, any liability of the Seller to the Buyer shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest market available) of similar goods to replace those not delivered, over the price of the Goods.
- 8.6 The Seller shall not be liable for any non-delivery of Goods (even if caused by the Seller's negligence), unless the buyer gives written notice to the Seller of the non-delivery within 28 days of the date when the Goods in the ordinary course of events would have been received.

- 8.7 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of the Seller's fault) then without prejudice to any other right or remedy available to the Seller the Seller may:
- 8.7.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
 - 8.7.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) charge the Buyer for any shortfall below the price under the Contract.
- 8.8 The Seller may at its option cancel or suspend (or suspend and later cancel) all further deliveries under the Contract in the event of default by the Buyer in making any payment due hereunder or under any other contract between the Seller and the Buyer or in the event that the Buyer being a natural person shall die.
9. **RISK AND PROPERTY**
- 9.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
- 9.1.1 if Goods are to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer in writing that the Goods are available for collection; or
 - 9.1.2 if Goods are to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
- 9.2 The Seller shall not be liable for any loss of any kind to the Buyer arising from any damage to the Goods occurring after the risk has passed to the Buyer, however caused, nor shall any liability of the Buyer to the Seller be diminished or extinguished by reason of such loss.
- 9.3 Ownership of the Goods shall not pass to the Buyer until the Seller has received in full (in cash or cleared funds) the price of the Goods and all other sums which are or which become due from the Buyer to the Seller on any account.
- 9.4 Until ownership of the Goods has passed to the Buyer, the Buyer shall hold the Goods on a fiduciary basis as the Seller's bailee and store the Goods (at no cost to the Seller) separately from all other goods of the Buyer or any third party in such a way that they remain identifiable as the Seller's property.
- 9.5 The Buyer may only resell the Goods before ownership has passed to it provided that it accounts to the Seller for the proceeds of sale or otherwise of the Goods whether tangible or intangible including insurance proceeds and shall keep all such proceeds separate from any moneys or property of the Buyer and third parties.
- 9.6 Until ownership of the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold) the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and if the Buyer fails to do so forthwith to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
10. **WARRANTY AND LIABILITY**
- 10.1 Subject to the conditions set out below the Seller warrants that the Goods will correspond with the order at the time of delivery.
- 10.2 The above warranty is given by the Seller subject to the following conditions:
- 10.2.1 the Seller has no liability for any defect in or unsuitability for the intended purpose of the Goods arising from any disk, photograph, material, drawing, design or instruction supplied or specified by the Buyer;
 - 10.2.2 the Seller has no liability for any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing) or misuse, alteration or repair of the Goods without the Seller's approval;
 - 10.2.3 the Seller has no liability under the above warranty (or any other warranty condition or guarantee) if the Buyer has not paid the total price for the Goods by the due date for payment;
- 10.3 Subject as expressly provided in these conditions and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties conditions terms and liabilities express or implied by statute or common law are excluded to the fullest extent permitted by law.
- 10.4 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with the order shall (whether or not delivery is refused by the Buyer) be notified in writing to the Seller within 7 days from the date of

delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused and the Buyer does not so notify the Seller the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure and the Buyer shall be bound to pay the price for the Goods as if they had been delivered in accordance with the Contract.

10.5 Nothing in these conditions excludes or limits the liability of the Seller:

10.5.1 for death or personal injury caused by the Seller's negligence; or

10.5.2 under section 2(3) of the Consumer Protection Act 1987; or

10.5.3 for any matter which it would be illegal for the Seller to exclude or attempt to exclude its liability; or

10.5.4 for fraud or fraudulent misrepresentation.

10.6 The Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price.

10.7 The Seller shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

11. **INTELLECTUAL PROPERTY**

11.1 Unless the Buyer and Seller agree in writing to the contrary, the Seller will retain ownership of all intellectual property rights over images, designs and graphics originating from the Seller including, without limitation, copyright and related rights, trade marks, rights in designs, database rights and rights in confidential information (including know-how and trade secrets).

11.2 The Buyer agrees to indemnify the Seller in respect of any claims, costs and expenses incurred by the Seller as a result of the infringement of any intellectual property or other rights in the Goods ordered by the Buyer.

12. **ILLEGAL MATTER**

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

11.2 The Seller shall be indemnified by the Buyer in respect of any claims, cost 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 Buyer. This indemnity shall include any legal fees incurred in dealing with or settling any such claim.

13. **STANDING MATERIAL**

13.1 Any metal, film, disks or other materials owned by the Seller and used by the Seller or suppliers acting on behalf of the Seller in the production of plates, setting, negatives, positives, cutters or dies shall remain the exclusive property of the Seller.

13.2 Any metal, film, disks or other materials supplied to the Seller by the Buyer shall remain the property of the Buyer.

13.3 Generally, any standing material will be retained by the Seller on file for a period of two years after delivery of the Goods. However, unless the Buyer and Seller agree in writing to the contrary, the Seller reserves the right to destroy any negatives or lithographic work immediately after the Goods have been delivered.

14. **INSOLVENCY OF BUYER**

14.1 If:

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- 14.1.1 the Buyer calls any meeting of its creditors or makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) shall present a petition or have a petition presented by creditors against it for its winding up or goes into liquidation; or
 - 14.1.2 an encumbrancer takes possession or a receiver or administrative receiver is appointed over the whole or any part of the property or assets of the Buyer; or
 - 14.1.3 the Buyer shall be deemed unable to pay its debts; or
 - 14.1.4 the Buyer ceases or threatens to cease to carry on business; or
 - 14.1.5 the Buyer commits an irremediable breach of these conditions; or
 - 14.1.6 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer in writing accordingly

then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without incurring any liability to the Buyer and, if the Goods have been delivered but not paid for, the price for the Goods shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

15. **GENERAL**

- 15.1 Any notice required or permitted to be given by either party to the other under the Conditions shall be in writing addressed to that other party at its registered office or principal place of business.
- 15.2 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 15.3 If any provision of the Contract (including these conditions) is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

16. **FORCE MAJEURE**

- 16.1 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of the Seller's obligations in relation to the Goods if the delay or failure was due to any cause beyond the Seller's reasonable control including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire explosion, flood, drought, epidemic, lockouts, strikes, other industrial actions or trade disputes (whether or not relating to either party's workforce), import or export regulations or embargoes; difficulties in obtaining raw materials labour fuel parts or machinery; power failure or breakdown in machinery.

17. **PROPER LAW**

These conditions and all other express terms of the Contract shall be governed by and interpreted in accordance with English Law and the parties submit to the exclusive jurisdiction of the English courts.

18. **ASSIGNMENT**

- 18.1 The Buyer shall not assign any benefit under the Contract without prior written consent from the Seller.

19. **THIRD PARTY RIGHTS**

- 19.1 Nothing in this Agreement shall create any rights for third parties under the Contracts (Rights of Third Parties) Act 1999.