

## CONDITIONS OF CONTRACT

### 1) **GENERAL**

#### a) **Definitions**

In these conditions

- i) "Printer" means NSD International.
- ii) "Customer" means the person, firm or company who places an order with the Printer for the manufacture and/or supply of any goods.
- iii) "Goods" shall mean goods, accessories and materials supplied by the Printer
- iv) "Contract" shall mean a Contract for the supply of Goods and/or Services to the Customer by the Printer in accordance with these conditions.
- v) "Services" shall mean all work carried out by the Printer pursuant to a Contract.

#### b) **Exclusions of terms inconsistent herewith.**

Only these conditions shall apply to the supply of Goods and/or Services by the Printer. If the terms and conditions stated in the Customer's order are inconsistent herewith, or if they contain a provision(s) purporting to exclude these conditions, the Printer's acceptance of the Customer's order shall constitute a counter offer and the Customer shall be deemed to have accepted these conditions unless it notifies the Company Secretary of the Printer at its registered office to the contrary in writing within seven days of the date of the Printer's acknowledgement of the Customer's order.

#### c) **Variation and waiver.**

No variation, cancellation or waiver of these conditions shall be valid unless made in writing and signed by a duly authorised representative of the Printer. At the request of the Customer the Printer will verify whether any named individual has the requisite authority.

### 2) **EXTENT OF CONTRACT**

The Printer's obligation shall extend only to the Goods and Services specified or referred to in the Contract.

### 3) **ACCEPTANCE**

The Printer's offers, estimates, quotations and price lists are invitations to treat. All orders require the Printer's acceptance in writing in order to create a contract. Any such acceptance shall nevertheless be subject to the Customer's credit being approved and to cancellation without liability at the instance of the Printer should be subsequently find the Customer's credit inadequate.

### 4) **DESPATCH OR SUPPLY PERIOD**

The period quoted for despatch of Goods or the Performance of Services commences from the date of the order acknowledgement but it is an estimate only and does not form part of the contract. Whilst the Printer shall use reasonable commercial endeavours to despatch the Goods and/or perform the Services by the date specified on the order acknowledgement it shall not be liable for delay in delivery from any cause whatsoever and howsoever arising. Time shall not be of the essence of the contract.

### 5) **DESPATCH OR SUPPLY IN LOTS**

The Printer shall have the right to despatch any portion(s) of the Goods or perform the services covered by the contract and to invoice the Customer for such portion(s) so despatched on the same terms and conditions set forth herein. Each delivery, part delivery and part performance shall be deemed to represent a separate contract and failure of any delivery, part delivery or part performance shall not vitiate any contract in respect of any other delivery, part delivery or part performance.

## **6) NON-ACCEPTANCE BY CUSTOMER**

If by reason of the Customer's default Goods have not been taken up or delivered by the delivery date, the Printer may in its sole discretion (without prejudice to its right to claim damages) suspend delivery of the Goods or treat the contract as repudiated with regard to those Goods or store the Goods at the expense and risk of the Customer until they are taken up or do any combination of the foregoing.

## **7) VARIATIONS IN QUANTITY**

Every reasonable commercial endeavour will be made to deliver the quantity ordered by the Customer but estimates are conditional upon margins of + / - 10% for work being allowed for overs or shortage (+ / - 5% for quantities exceeding 50,000) the same to be charged or deducted.

## **8) DELIVERY AND PAYMENT**

- a) Delivery of goods or performance of Services shall be accepted when tendered and thereupon or, if earlier, on the notification that the work has been completed and payment shall become due.
- b) All prices quoted by the Printer are exclusive of V.A.T. or other governmental charges and are subject to variation in the event of fluctuation in the cost of labour, material or overheads. Any increase in such costs during the period of production may, at the Printer's absolute discretion, be added to the quoted price. The amount of V.A.T. or other governmental charge upon the production, sale or shipment whether now imposed or hereafter increased or becoming effective shall be added to the price quoted and shall be payable by the customer.
- c) Unless otherwise specified the price quoted is for a U.K. (excluding Northern Ireland) delivery to the Customer's address as set out in the estimate. Delivery to addresses other than the above are FOB only. Delivery to any other address shall be by prior agreement only and in that event a charge, of such reasonable amount as the Printer may determine, may be made by the Printer to cover any extra costs involved.
- d) Should expedited delivery be agreed an additional charge, of such reasonable amount as the Printer may determine, may be made by the Printer to cover any overtime or any other additional costs involved.
- e) Should the supply of Goods or performance of Services 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 immediate payment for work already carried out, materials specially ordered and other additional costs including storage.
- f) Payment terms are strictly 30 days net. The Printer shall in the event of any default of payment on the due date, without prejudice to its rights hereunder, have the right to charge the Customer interest on the overdue payment at the rate of 10% per month or pro rata per diem from the date payment was due until the date payment is made to the Printer. All payment shall be made in sterling to the Printer at its registered office.
- g) Unless otherwise specified, the price quoted is for delivery of the Goods when completed and performance of the Services. Where a Customer requests part of a completed order to be held in stock by the Printer and to be invoiced only when delivered, an additional charge, of such reasonable amount as the Printer may determine, may be made by the Printer to cover storage and/or financing costs. Such Goods shall be held at the Customer's risk for a period not exceeding six months, after which time delivery will be made and the goods invoiced.

## **9) PRELIMINARY WORK**

All Services carried out at the Customer's request whether experimentally or otherwise shall be charged to the Customer at such reasonable rates as the Printer may determine.

## **10) COPY**

A charge may be made, of such reasonable amount as the Printer may determine, by the Printer to cover any additional Services involved where copy supplied is not clear and legible.

## **11) PROOFS**

Proofs of all work may be submitted for Customer's approval and the Printer shall incur no liability for any errors or omissions not corrected by the Customer in proofs so submitted. Customer's alterations and additional proofs necessitated thereby shall be charged at such reasonable rates as the Printer may determine in addition to the quoted price. When style, type or layout is left to the Printer's judgement, changes therefrom made by the Customer shall be charged at such reasonable rates as the Printer may determine, in addition to the quoted price.

## **12) CLAIMS**

Advising 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 days of delivery (or, in the case of non-delivery, within 28 days of the 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 at the principal place of business within 28 days of delivery. 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 the Customer proves (i) it was not possible to comply with the requirements and (ii) advice (where required) was given and the claim was made as soon as reasonably possible.

## **13) STANDING MATERIAL**

- a) Metal, film and other materials owned by the Printer and used by him in the production of type, plates, moulds, film-setting, negatives, positives and the like shall remain its exclusive property, whether or not they have been the subject of a separate origination charge to the Customer. Such items when supplied by the Customer shall remain the Customer's property.
- b) 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, a charge may be made.

## **14) CUSTOMER'S PROPERTY**

- a) 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 shall insure the Property accordingly.
- b) The Printer shall be entitled to make a reasonable charge for the storage of any Customer's property left with the Printer at any time.

## **15) MATERIALS SUPPLIED BY THE CUSTOMER**

- a) The Printer may reject any paper, plates, artwork, film or other materials supplied or specified by the Customer which appear to him to be unsuitable. Additional cost incurred if the materials are found to be unsuitable during production may be charged to the Customer except that if the whole or part of any 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.
- b) Where materials are so supplied or specified by the Customer, the Printer will take every care to secure the best results from their use, but responsibility will not be accepted for imperfect work caused by defects in or unsuitability of materials so supplied or specified.
- c) Quantities of materials so supplied shall be sufficient to cover normal spoilage.

## **16) RESERVATION OF TITLE**

This provision shall apply to all Goods supplied to the Customer: -

- a) Property and title in and to the Goods shall remain with the Printer until all monies due by the Customer to the Printer (including any interest and charges) have been paid in full. The Customer shall store all Goods so that they are readily identifiable as the Printer's Goods until all such monies are paid.
- b) If the Customer fails to pay any sums due to the Printer by the due date for payment, in addition to any other remedies available to the Printer under these terms and conditions or otherwise, the Printer shall be entitled to re-possess the Goods. The Customer will assist and allow the Printer so to re-possess the Goods and for this purpose, admit or procure the admission of the Printer or its employees or agents to the premises in which the Goods are situated.
- c) If the Customer becomes apparently insolvent or compounds with his or its creditors or has a liquidator, receiver or administrator appointed over all or any of its assets or carries out or undergoes any analogous act or proceeding under foreign law prior to property in any Goods passing as aforesaid, the Customer's right to re-sell or otherwise deal in the Goods shall automatically terminate and the Printer shall be entitled to re-possess any of such Goods.

## **17) RISK**

Notwithstanding that property in the Goods has not passed under Clause 16 hereof the risk of loss, damage or destruction to the Goods shall pass to the Customer on delivery.

#### **18) LIEN**

In circumstances where the Printer holds Goods for or on behalf of the Customer, the Printer will have the right of lien on all such Goods for any debts, claims and liabilities whatsoever for which the Customer may from time to time be liable to the Printer whether or not the same are due at the time of sale of the Goods and whether they are due or become due when the lien is insisted upon. The Printer will exercise this right of lien at its discretion by sale or retention of the Goods, and in the event of a sale will retain the proceeds towards or to meet such debts, claims and liabilities. This right of lien is in addition to and without prejudice to the Printer's right of reservation of title in the case of goods which have not been paid for. Any acknowledgement by the Printer that the Goods are being held on behalf of the Customer does not constitute an acknowledgement that the Customer has title to same.

#### **19) ILLEGAL MATTER**

- a) The Printer shall not be required to print any matter which in his opinion is or may be of an illegal or defamatory nature or an infringement of the proprietary of other rights of any third party.
- b) The Printer shall be indemnified by the Customer in respect of any claims, costs and expenses arising out of any defamatory matter or any infringement of copyright, patent, design or of any other proprietary or personal rights contained in any material printed for the Customer. The indemnity shall extend to any amounts paid for legal advice in settlement of any claim.

#### **20) COPYRIGHT**

The copyright in all artwork, copy and other work produced by the Printer vests initially with the Printer. On payment by the Customer of all monies outstanding in full as aforesaid, the copyright shall be deemed to be assigned to the Customer unless agreement is made by the Printer and Customer to the contrary.

#### **21) FORCE MAJEURE**

The Printer shall be under no liability if it shall be unable to carry out any provision of the contract for any reason beyond its 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 or furtherance of a dispute 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 used, but subject thereto shall otherwise accept delivery when available.

#### **22) SPECIFIED MATERIAL**

The Printer reserves the right to substitute alternative equivalent material to that specified or ordered when necessary due to the exigencies of production.

#### **23) LAW**

The conditions and all other express terms of the Contact shall be governed and construed in accordance with the Law of Scotland