

IMAGO PUBLISHING LIMITED

TERMS & CONDITIONS OF TRADING



1. DEFINITIONS

In these conditions the "Company" means Imago Publishing Ltd. The "Customer" means the person, firm or company purchasing goods from the Company. "Contract" means the contract of sale between the Company and the Customer. "Goods" means any goods and/or services forming the subject matter of the Contract. "Contract price" means the price of the Goods.

2. APPLICABILITY OF CONDITIONS

These general terms and conditions together with any terms contained in or referred to in the Company's Estimate(s) shall govern any contract based on or arising from the Company's Estimate(s) unless otherwise agreed in writing, to the exclusion of any other terms, conditions and warranties (whether written or oral, express or implied) even if contained in any of the Customer's documents which purport to provide that the Customer's own terms or conditions shall prevail. These terms and conditions shall supercede any other terms or conditions, and no addition, amendment or modification of these terms and conditions shall be effective unless it is in writing and signed or accepted by a director of the Company.

3. PRICES

Prices quoted are based upon current costs of manufacture and materials, and apply strictly to the specification and quantity given in the Estimate(s). All prices are quoted subject to sight of Customer's materials and subject to confirmation at time of order. Unless otherwise stated all charges for couriers, postage, carriage, freight, safety testing, taxes, and customs duties where applicable, are payable by the Customer.

Prices quoted in the Company's Estimate(s) may be amended due to currency exchange rate fluctuations.

The cost of all author's corrections, alterations to style, and additional proofs necessitated by such corrections and alterations will be added to the contract price.

Any preliminary work for whatever purpose whether experimental or not may be charged to the Customer.

4. PROOFS

Proofs may be submitted for all jobs at the Customer's request. Proofs approved in writing by the Customer will be considered passed for press and no

responsibility will be accepted for errors not corrected by the Customer. Because of the difference in equipment/conditions between the colour proofing and pressroom operations, reasonable variations in colour between the proofs and completed job shall be accepted by the Customer.

5. DELIVERY AND PAYMENT

Prices quoted by the Company are strictly net and fall due for payment within 30 days of despatch of the Goods unless otherwise agreed.

Delivery of Goods by the Company to the Customer shall at all times be subject to INCO 2000 terms as referred to in the Company's Estimate(s).

Any loss or damage in transport which may give rise to an insurance claim must be reported by the Customer to the Company within a reasonable time and in any case not later than 14 days from receipt by the Customer of the Goods. If the Customer shall fail to give such notice the consignment of Goods shall be conclusively presumed to be complete and undamaged.

Passing of title:

a) neither legal nor beneficial title to the Goods will pass to the Customer until:

- i. the Customer has paid to the Company all sums due and payable from the Customer to the Company (including debts arising before the date of the Contract); or
- ii. the Company serves on the Customer notice in writing to that effect; or

whichever shall happen first.

b) The Customer hereby irrevocably licences the Company, its servants and agents to enter upon any premises of the Customer for the purpose either of satisfying itself that condition (c) below is complied with by the Customer and/or, if the Company has terminated the Customer's right of resale pursuant to condition (e) below, for the purposes of recovering any Goods in respect of which property has not passed to the Customer.

c) Until title to the goods has passed to the Customer, it shall possess the Goods as a bailee of the Company the terms of the bailment being governed by this contract. If the Company so requires the Customer shall store the Goods separately from its other goods and shall ensure that they are clearly identifiable as belonging to the Company.

d) Notwithstanding that title has not passed and subject to sub-clause (e) the Customer may sell the Goods as a mercantile agent but only on terms that title to the Goods shall not pass to the purchaser until the Customer as mercantile agent has received payment in full of all monies owing from the purchaser. Until such payment is made the Company reserves the right to recover payment for the Goods from the Customer's purchaser in accordance with the provisions of subsection 12(3) of the Factors Act 1889.

e) The Customer's right of resale may be terminated by the Company upon oral or written notice to the Customer immediately if the Customer defaults in payment of any sum when due and shall automatically cease if a receiver is appointed over any of the assets of the Customer, or any person shall become entitled to levy distress in respect of any assets situated at any premises of the Customer, or a judgment is entered against the Customer and is not paid within seven days, or a petition is presented for an administration order in respect of the Customer, or a winding up petition is presented against the Customer or a resolution passed for creditors' voluntary winding up or the Customer is or is deemed to be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986.

f) The Customer shall not be entitled to pledge or grant any security in any way for any indebtedness over or in respect of any of the Goods so long as they remain the property of the Company.

g) Notwithstanding the provisions of subclauses (d), (e) and (f), the Company shall be entitled to terminate the bailment of the Goods under sub-clause (c) at any time, retake possession from the Customer and resell them in such manner as it considers fit, and shall, account to the Customer for the surplus sale proceeds (if any) as determined pursuant to sub-clause (h).

h) The balance in respect of which the Company shall account to the Customer in the circumstances specified in sub-clause (g) shall be the proceeds of sale of the Goods less:

- i. the expenses of resale; and
- ii. all monies owing from the Customer to the Company.

The Company will use all reasonable endeavours to deliver the Goods to the Customer by the date agreed, but time is not to be the essence in so far as delivery is concerned and the Customer will not be entitled to cancel the contract or to any compensation for late delivery. Should any suspension or delay by the Customer halt production for more than 30 days the Company will be entitled to invoice for work already completed and for materials ordered in connection with the Goods.

The Company shall be entitled, on notice to the Customer, to make partial deliveries and partial deliveries shall be no ground for the cancellation of the contract or the remainder thereof. In the event that the Company makes partial deliveries the Customer shall pay for the Goods so delivered within 30 days of despatch of the Goods unless otherwise agreed. The Company shall use all reasonable endeavours to deliver the quantity ordered by the Customer, but in accordance with international practice, over or under delivery of up to 5% shall constitute good delivery, and the Company will bill for the actual quantity delivered within this tolerance.

If payment by the Customer to the Company is overdue at any time under any other contract of sale between them the Company shall have the right to suspend production or withhold delivery under this Contract until such payment has been made, and the Company shall incur no liability of any kind to the Customer in the exercise of this right.

The Company reserves the right to charge interest at a rate of 5.0% per annum over UK Bank Base rate on all amounts outstanding beyond the due date.

6. CUSTOMER'S MATERIALS

The Customer warrants that any component part supplied to the Company has been checked for safety and fitness for purpose.

Customer's materials will subject to paragraph 7 be held and transported at the Customer's risk. The Company will not be liable for any loss or damage to Customer's materials while held by the Company or the Company's agents or while in transport.

Where property is supplied to the Company by or on behalf of the Customer it will be delivered in sufficient quantities to cover normal spoilage and shall be held, worked on, and carried at the Customer's risk.

The Company reserves the right to reject Customer's materials which it considers unsuitable. A charge will be made for materials found to be unsuitable during manufacture. Claims for imperfect manufacture due to unsuitable Customer's materials cannot be accepted.

7. MATERIALS FOR ORIGINATION

The Company accepts no liability and is not insured for loss or damage to documents, transparencies, artwork, layouts, or any other materials in physical or digital form howsoever supplied or transmitted by the Customer whilst in the Company's possession or control. The Customer hereby warrants that no reproduction, alteration, storage or use of words and images or any other information, data or material by the Company at the Customer's request will infringe in any way any copyrights, licences or other rights and that any screen or printer fonts, data or picture files supplied by the Customer to the Company shall comply with the software vendors' site license and/or any other copyright or other agreements. The Customer hereby agrees to indemnify the Company in respect of all claims, actions, proceedings, liability, loss, damage, costs and expenses arising out of any claim that the copying, processing or use of such words or images or other material, or any such fonts or other software supplied to the Company for processing, constitute an infringement of any copyright or licence, or any other rights of third parties.

Digital storage: If the Customer requires materials to be stored as digital information, this request must be made at time of order to ensure that the work is processed in a manner compatible with digital storage. Any such request made subsequently may result in extra charges. As it is possible for corruptions to occur during the process of downloading digital files from the system to storage media, it is the responsibility of the Customer to check all files of digital information supplied by the Company immediately on receipt. In the event that any file proves to be corrupted, the Company will replace such corrupted files free of charge provided that the Customer notifies the Company in writing within 28 days of receipt of any such corrupted file, that the file containing the corruption is returned, and that the fault is clearly demonstrated. The Company will accept no liability for any problems the Customer may have in reading digital

storage media due to faults or unsuitability of the Customer's equipment, nor for degradation of storage media itself for whatever reason such has or will occur. The Company will accept no liability whatsoever for any problem reported regarding digital files supplied to the Customer if more than 28 days have elapsed since such digital files were received by the Customer.

8. STANDING MATERIALS

All Customer's materials supplied to the Company will remain the Customer's property and will be returned at Customer's risk and expense after use or stored by the Company at the Customer's risk. The Company reserves the right to make extra charges for such storage of Customer's materials. All materials generated by the Company from Customer's materials which do not form part of the finished product will remain the Company's property.

9. DEFECTS

a) Except in the following circumstances, the Company gives no warranty or condition, express or implied, statutory or otherwise of materials, workmanship or fitness for purpose of the Goods.

b) Defects in the Goods attributable to faulty materials or faulty workmanship must be notified to the Company in writing within 28 days of receipt of the Goods, time being of the essence to establish liability.

c) In the event of less than 3% of the Goods being found to contain defects attributable to faulty materials or workmanship such that under reasonable market conditions they shall be in the Company's reasonable opinion commercially unacceptable, the Company will credit the Customer with its charges for such defective Goods.

d) In the event of more than 3% of the Goods being found to contain defects attributable to faulty materials or workmanship such that under reasonable market conditions they shall be in the Company's reasonable opinion commercially unacceptable, the Company shall have the option to either recover, repair or replace the defective Goods, or to credit the Customer with its charges for such defective Goods

10. LIMITATION OF LIABILITY

The Company's liability:

a) for death or personal injury resulting from the negligence of the Company or that of its servants or agents; or

b) in relation to any other liability which may not by applicable law be excluded or limited; is not excluded or limited.

Subject to the above, and except for any;

a) grossly negligent acts causing damage to real or personal property or persons occurring in pursuance of any contract, or

b) intentionally wrongful acts to property or persons,

the Company's liability for damages in respect of any breach of this agreement shall in no event exceed the invoice value of the Goods supplied thereunder.

Subject to all the above, and in addition to any specific exclusion or limitation of its liability herein, the Company accepts no liability for any indirect or consequential loss or damage (howsoever arising and even if the Company has been notified of the possibility of such loss or damage), including loss of profits, loss of sales, loss of turnover, loss of bargain, loss of opportunity, loss of computer hardware, software or data or loss of time on the part of management or other staff or any liability for third party claims against the Customer.

11. PRODUCT SAFETY

a) Sole responsibility for ensuring that the Goods can be legally offered for sale or sold, and have been tested to applicable safety and environmental standards for the market in which they are to be sold rests with the Customer and the Company accepts no liability of any kind to the Customer in these respects.

b) If and whenever the Customer requests the Company to arrange product testing on its behalf (whether or not at the Customer's expense) or the Company does so upon its own initiative, the Company accepts no liability or other responsibility of any kind to the Customer for anything not disclosed by such testing.

12. ILLEGAL AND LIBELOUS MATTER

The Company shall not be required to print any matter which it considers is, or may be, illegal, immoral, indecent, scandalous, libellous, or may otherwise give rise to legal proceedings. The Customer hereby warrants that no matter or materials which it requires or causes the Company to print or possess shall be in any way whatever an infringement of any copyright, patent, trade mark, or design or other right, and contains nothing defamatory, obscene, indecent, blasphemous, objectionable, in breach of the Official

Secrets Acts or in any other way illegal or in breach of any duty or obligation of confidence. The Customer hereby indemnifies the Company in respect of all claims, actions, proceedings, liability, loss, damage, costs and expenses arising out of any breach, or claimed breach, of the above warranty.

13. FORCE MAJEURE

The Company shall not be liable for any delay or failure in its obligations which is caused wholly or partly by reason of Act of God, delay in transportation, labour disputes, fire, flood, war, drought, accident, government action, inability to obtain adequate labour, materials, manufacturing facilities or energy, or any other cause beyond the Company's control or that of its servants or agents, and if the delay or failure has continued for a period of 12 weeks then either party may elect to give notice in writing to the other party terminating the contract and then the Customer will pay for work done and materials used. Subject to this right to elect, the contract shall otherwise continue and the Customer shall accept delivery in accordance with the provisions of Clause 5.

14. LAW AND INTERPRETATION

This contract shall be governed by English Law, and the Customer shall submit to the non exclusive jurisdiction of the English courts.

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