

# Conditions of Trading

## 1 CONTRACT

- 1.1 All quotations and tenders are given and contracts are made by Commercial Forms Limited (hereinafter referred to as the "Company") subject of and only upon these terms and conditions, and unless previously agreed in writing by an authorised officer of the company no verbal, written or other addition hereto or variation hereof shall be effective, and the terms and conditions supersede and shall prevail over and exclude any other terms and conditions appearing elsewhere including any terms and conditions of the customers and any course of dealing established between the Company and the customer.
- 1.2 Tenders and quotations may be withdrawn or varied by the Company at any time and unless otherwise specified shall be deemed to be withdrawn automatically at the expiry of 28 days from the date of issue. No binding contract will in any case arise until the customer's order is accepted in writing by the Company.

## 2 SPECIFICATIONS

The customer shall be responsible for ensuring that any artwork, sketched, specifications, descriptions or information or other instructions supplied by the customer or by any agent or representative of the customer in connection with the manufacture or sale of any goods are accurate unambiguous and clearly legible and meet the customer's requirements, and the customer shall indemnify and hold the Company harmless in respect of any liability, loss, injury, damage, demand cost, charge or expense which may be incurred or sustained by the Company by reason of or arising directly or indirectly out of any claim in respect of any inaccuracy, ambiguity or illegibility in respect of any such artwork, sketched specifications, descriptions or information or otherwise in relation thereto, when proofs have not been requested of, nor supplied by the Company.

## 3 PROOFS AND ADDITIONAL WORKS

Proofs of work may be submitted for customer's approval and the Company shall incur no liability for any errors not corrected by the customer in proofs so submitted. Customer's alterations and additional proofs necessitated thereby, and all other works carried out at the customer's request, shall be charged extra. When style type or layout is left to the company's judgement, changes therefrom made by the customer shall be charged extra. A charge may also be made to cover any additional work involved where copy supplied is not clear and legible.

## 4 ILLUSTRATIONS

Any samples, illustrations or descriptive material made available by the Company including artwork and specifications of weight, capacity or dimensions shall not form part of the contract but shall be treated as approximate only unless specifically stated otherwise. All documents containing such illustrative or descriptive material (as well as the copyright therein) shall remain the exclusive property of the Company and must not be copied, or loaned or transferred.

## 5 STANDING MATERIAL

- 5.1 Metal, film, glass and other materials owned by the Company and used by it in the production of type, plates, moulds, stereotypes, electrotypes, film-setting, negatives, positives and the like shall remain its exclusive property. Such items when supplied by the customer shall remain the customer's property.
- 5.2 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 and in the latter event rent may be charged.
- 5.3 The Company shall be entitled to make a reasonable charge for the storage of any customer's property left with the Company before receipt of the order or after notification to the customer of completion of the contract work.

## 6 DELIVERY

- 6.1 The Company shall take reasonable steps to execute the contract within any quoted period but such time is not guaranteed, nor deemed to be of the essence of the contract. The estimated time for despatch or delivery shall be extended by a reasonable period if there is any delay caused by industrial dispute or by any cause beyond the reasonable control of the Company. If a shorter delivery period is agreed than any quoted period an additional charge may be made reflecting any overtime or additional costs involved.
- 6.2 The Company cannot be held responsible for any mistakes or errors if a delivery is required earlier than that which has been quoted.
- 6.3 If work is suspended at the request of or delayed through default of the customer the Company shall be entitled to payment for work already carried out, materials specially ordered and other additional costs including storage.

## 7 LOSS OR DAMAGE IN TRANSIT

- 7.1 If the goods have not been received within three clear working days of the delivery date notified to the customer by the Company or if they have been received but appear to be in a damaged condition or if there are shortages, then the customer shall immediately give notice to the Company of the relevant facts. If such notice is not so given the Company shall not be liable to the customer in respect of any loss or damage suffered by reason of non-delivery, short delivery damage which is apparent upon inspection and the customer shall accept liability as if all the goods had been received and shall not claim against the Company in respect of non delivery or damage in transit. The Company shall not in any case be liable for any loss to the customer arising from delay in transit not caused by the Company.
- 7.2 In the case of goods delivered to the order of the customer, the customer shall remain responsible for complying with the provisions of this Clause.
- 7.3 If the contract provides for delivery by instalments, delay in delivery or non-delivery of any instalment shall not entitle the customer to treat the contract as at an end or to reject any other instalment.

## 8 DELIVERY RISK AND PASSING OR PROPERTY

- 8.1 Subject only to Clause 7 the customer shall accept delivery of the goods when they are tendered.
- 8.2 Goods shall be at the customer's risk from the moment of delivery, whether or not property in the goods has passed or payment or part payment made therefor, and thereafter the customer shall be responsible for insuring the goods.
- 8.3 Property in the goods shall not pass to the customer until the full amount due hereunder has been paid to the Company. So long as property in the goods shall remain in the Company the goods shall be set aside from the customer's general stock of goods and shall be marked with an indication that they remain the property of the Company.
- 8.4 Where property remains with the Company after delivery, the customer may use the goods in the processing or manufacture of other items. Property in the items so created shall immediately upon creation be with the Company and the items shall be held by the customer in a fiduciary capacity for the Company unless and until the full amount hereunder has been paid to the Company.
- 8.5 Where property remains with the Company after delivery of the goods or upon the creation of other items the customer shall be entitled to sell the goods or other such items in the ordinary course of business provided that all sums due to or received by the customer in respect of any such sale shall be held by the customer in a fiduciary capacity for the Company unless and until the full amount payable hereunder has been paid to the Company.
- 8.6 If any of the events specified in Cause 11 below shall occur then the Company shall have the right with or without prior notice at any time to take or retake possession and to resell the whole or any part of the goods or the other items referred to in 8.4 above (and for that purpose to go on to any premises occupied by the customer or any subsidiary, parent or associated company of the customer with such transport as may be necessary) which are the subject of any contract between the Company and the customer (or any parent, subsidiary or associated company of the customer) to the value of all sums due to the Company, without prejudice to any other remedy of the Company.

## 9 PRICE

- 9.1 The contract price excludes Value Added Tax, or any other tax or duty payable: the amount of such taxes or duties shall be added to the contract price and shall be payable by the customer in the same manner as the contract price.
- 9.2 The Company shall be entitled to adjust the contract price by such amount as it thinks fit at any time before delivery of the relevant goods in the event of any increase in the cost to the Company in supplying any goods whether such increase shall result from higher costs of raw materials, labour, transport or overhead expenses or from any other cause whatsoever.
- 9.3 Unless other wise agreed in writing between the Company and the customer the contract price is based on the assumption that the goods will be supplied in one batch and to the customer's address as set out in any estimate and accordingly the Company may at its discretion at any time, increase the contract price to take account of any additional costs to the Company (including but not limited to storage and delivery costs) by reason of the supply of the goods in more than one batch or to a different address.
- 9.4 Without prejudice to any other remedy which the Company may have, in the event of the customer cancelling the contract the Company shall be entitled to charge the customer for all expenses incurred by the Company in respect of such contract to the date of cancellation and any loss of profit arising by reason of the cancellation of such contract.

## 10 PAYMENT

- 10.1 Payment shall be made no later than 30 days after the invoice date ("the Due Date"). All payments shall be made in full without deduction in respect of any set-off or counterclaim other than settlement discount.

- 10.2 If payment of any sum payable to the Company is not made on or before the Due Date the Company shall be entitled to charge interest thereafter on such sum at the rate of 4 per cent per annum above the clearing bank base rate, such interest being deemed to accrue from day to day and being compounded on the last day of each calendar month.
- 10.3 The contract price shall be payable by the customer notwithstanding any delay in delivery or performance under the contract and notwithstanding any adjustments or corrections of defects which may be required to the goods.

## 11 INSOLVENCY OR DEFAULT

If the customer shall make default in or commit any breach of any of its obligation to the Company (including but not limited to any failure to make payment on the Due Date of the contract price or of any interim payment or other sum payable by the customer to the Company) or if any distress or execution shall be levied upon the customer or if the customer shall offer to make any arrangement with creditors or commit any act of bankruptcy or if any petition in bankruptcy shall be presented against it or if the customer is a limited company any resolution or petition to wind up the customer (other than for the purposes of amalgamation or reconstruction which becomes effective) shall be passed or presented or if a Receiver shall be appointed over the whole or any part of the assets of the customer then all sums outstanding in respect of any goods supplied under any contracts made from time to time between the customer (or any subsidiary, parent or associated company of the customer) and the Company, shall be immediately payable to the Company and the Company shall have the right by notice in writing given to the customer to suspend forthwith the manufacture, delivery or supply of any further goods and to determine an unexecuted contract with the customer, without prejudice to any other remedy which the Company may have.

## 12 LIABILITY

- 12.1 All express or implied warranties or conditions statutory or otherwise as to the quality or fitness for any particular purpose of the goods, except to the extent that this provision is held to be unenforceable under or by virtue of any provision contained in the Sale of Goods Act 1979 or the Unfair Terms Act 1977 or the Supply of Goods and Services Act 1982 or any statutory modification or re-enactment thereof for the time being in force, are hereby expressly excluded.
- 12.2 The Company shall not be liable in any circumstances whatsoever, whether in contract, tort or otherwise, for loss of anticipated profits or revenue or contracts or for any indirect or consequential loss or damage arising from any cause whatsoever.
- 12.3 The Company shall not be liable for failing to perform the contract whether wholly or in part if the failure is caused either wholly or in part by any circumstance outside the Company's control.
- 12.4 All goods supplied but not manufactured by the Company are sold subject to the conditions of sale of the manufacture thereof, and the sole liability of the Company in respect thereof shall be to give to the customer such benefits as the Company shall receive under any contract which the Company has with such manufacturer. In the event of any failure by such manufacturer for whatever reason to meet such liability which may arise by reason of any defect in such goods, the Company shall be under no liability to the customer in respect of such defect.
- 12.5 If the customer wishes to rely upon any representation made by or on behalf of the Company but not expressly embodied in any tender, quotation or contract to which these Conditions apply, the customer shall give the Company written notice of such reliance before the Company incurs any obligation consequent upon such representation and shall not otherwise be entitled to rely upon such representation.
- 12.6 All property supplied to the Company by or on behalf of the customer shall while it is the possession of the Company or in transit to or from the customer be deemed to be at the customer's risk unless otherwise agreed in writing and the customer should insure accordingly.
- 12.7 The Company may reject any paper, plates or other materials supplied or specified by the Customer, which appear to it to be unsuitable. Additional costs incurred if materials are found to be unsuitable during production may be charged. Where materials are so supplied or specified, the Company will take every care to secure the best results, but responsibility will not be accepted for imperfect work caused by defects in unsuitability of materials so supplied and quantities must be adequate to cover spoilage.
- 12.8 The customer shall indemnify the Company in respect of any claims, costs and expenses arising from the printing or other treatment by the Company of any libellous matter or any infringement of copyright, patent, design or other intellectual property rights attaching to any material printed by the Company.

## 13 MISCELLANEOUS

- 13.1 Unless otherwise specifically agreed, goods shall not be required to comply with any direction, regulation or provision of any foreign law or governmental authority.
- 13.2 Unless otherwise specifically agreed the Company shall be entitled to affix to or print on any goods legends bearing the Company's name and/or trade or other marks.

- 13.3 No forbearance or indulgence shown or granted by the Company to the customer whether in respect of these Conditions or otherwise shall in any way affect or prejudice the rights of the Company against the customer or be regarded as a waiver of any of these Conditions.
- 13.4 Any notice required or authorised to be given hereunder may be given either personally or by telex or by post addressed to such other party at its last known address or at any other address furnished to the other by written notice. Notice so given by letter shall be deemed to have been served 48 hours after the same is posted and proof that the envelope containing the notice was properly addressed and sent by pre-paid post shall be sufficient evidence of service. Notice so given by telex shall be deemed to have been served 24 hours after it shall have been despatched.
- 13.5 Every endeavour will be made to deliver the correct quantity ordered, but some estimates are conditional upon margins (measured in fold depths) of 5 per cent, for single part or one process work not requiring special papers or special features and upon margins of 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 the charged or deducted.

14 PROPER LAW

This contract shall be governed by and constructed in all respects in accordance with the English law and the customer hereby submits for all purposes of and in connection with this contract to the non-exclusive jurisdiction of the English Courts.

### **Retention to Title**

ALL GOODS SUPPLIED REMAIN THE PROPERTY OF COMMERCIAL FORMS LTD, UNTIL PAYMENT IN FULL IS RECEIVED