

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 any contract of sale of product and/or supply of services between the Company and the Customer. "Goods" means any goods and/or services forming the subject matter of the Contract but excluding any media used by the Company for storing digital data in the course of the order process. "Contract price" means the price of the Goods. "Senior Manager" means a director of the Company or a director of Imago Holdings Limited.

2. FORMATION OF CONTRACT

2.1 No contract shall arise between the Company and the Customer unless and until the Company confirms in writing its unconditional acceptance of the Customer's order, to the exclusion of any other communication by or from the Company or any other conduct of the parties.

2.2 For the avoidance of doubt, any estimate, quotation or similar issued by the Company shall not constitute the Company's offer to enter into a contract on those terms and shall be subject to reconfirmation upon receipt of the Customer's order.

3. APPLICABILITY OF CONDITIONS

3.1 These terms and conditions, unless otherwise agreed in writing shall govern any Contract between the Company and the Customer, to the exclusion of any other terms or conditions, (whether written or oral, express or implied) even if contained or referred to in any of the Customer's documents which purport to provide that the Customer's own terms and conditions shall prevail.

3.2 These terms and conditions shall supersede any other terms and conditions governing any previous contract between the Company and the Customer, and no amendment or modification of these terms and conditions shall be effective unless it is in writing and signed or accepted by a Senior Manager.

3.3 No term or condition of the Contract shall be waived or varied, save as authorised in writing by a Senior Manager. Any purported waiver or variation not so authorised shall be of no effect.

4. PRICES

4.1 Prices agreed apply strictly to the contractual specification and quantity and are subject to sight of Customer's materials. The Company reserves the right to amend the price in case of non-conformity with the contractual specification and quantity.

4.2 Unless otherwise stated all charges for couriers, postage, carriage, freight, safety testing, taxes, and customs duties where applicable, are payable by the Customer.

4.3 For the avoidance of doubt all prices given, whether in an estimate, price scales or correspondence of whatsoever nature are exclusive of VAT or other applicable taxes or duties, which will be charged in accordance with prevailing legislation.

4.4 Prices may be amended due to currency exchange rate fluctuations.

4.5 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.

4.6 Any preliminary work for whatever purpose whether experimental or not may be charged at the Company's discretion to the Customer.

5. 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 by printing industry standards in colour between the proofs and completed job shall be accepted by the Customer.

6. DELIVERY AND PAYMENT

6.1 Any amounts owed to the Company fall due for payment within 30 days of despatch of the Goods unless otherwise agreed by both parties. The Company shall be entitled, on notice to the Customer, to make partial deliveries in which event the Customer shall not be entitled to cancel the Contract or refuse to

accept the remainder of the Goods and the Customer shall pay for the Goods so delivered within 30 days of despatch of each partial delivery.

6.2 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.

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

6.4 The Customer agrees to pay on demand all reasonable costs, fees and expenses incurred by the Company (including but not restricted to reasonable collection and legal fees) in connection with enforcement of the Company's rights against the Customer.

6.5 Delivery of Goods by the Company to the Customer shall at all times be subject to INCO 2020 terms unless specifically agreed otherwise.

6.6 Any loss or damage in transport 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.

6.7 Delivery dates are given by way of guidance only and time shall not be of the essence thereof. The Customer will not be entitled to cancel the contract or to any compensation for late delivery.

6.8 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.

6.9 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.

7. PASSING OF TITLE

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

7.1.1 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

7.1.2 the Company serves on the Customer notice in writing to that effect, whichever shall happen first.

7.2 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 7.3 below is complied with by the Customer and/or, if the Company has terminated the Customer's right of resale pursuant to condition 7.5 below, for the purposes of recovering any Goods in respect of which title has not passed to the Customer.

7.2 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.

7.3 Notwithstanding that title has not passed and subject to sub-clause 7.5 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.

7.4 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.

7.5 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.

7.6 Notwithstanding the provisions of sub-clauses 7.4, 7.5 and 7.6 hereof the Company shall be entitled to terminate the bailment of the Goods under sub-clause 7.3 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 7.8

The balance in respect of which the Company shall account to the Customer in the circumstances specified in sub-clause 7.7 shall be the proceeds of sale of the Goods less the expenses of resale and all monies owing from the Customer to the Company.

8. CUSTOMER'S MATERIALS

8.1 Customer's materials, including but not limited to documents, transparencies, artwork, layouts, or any other materials in physical or digital form howsoever supplied or transmitted by the Customer will be held and transported at the Customer's risk. The Company will not be liable for any loss or damage, howsoever caused to Customer's materials while held, worked on or carried by the Company or the Company's agents or while in transport and the Customer should insure accordingly.

8.2 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.

8.3 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.

8.4 Digital storage: The Customer will maintain a copy of any original electronic files and the Company will not be liable for any cost arising from loss or damage to any electronic file supplied by the Customer. Unless otherwise agreed in writing by a Senior Manager, the Company shall not be responsible for the checking of the content of any electronic file supplied by the Customer and the Customer will indemnify the Company against any liability arising from the publication of such files.

8.5 The Company reserves the right to make extra charges for storage of Customer's materials.

8.6 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. COPYRIGHT INFRINGEMENT

9.1 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 third party 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.

9.2 The Customer hereby agrees to indemnify the Company and the Company's employees, agents and/or contractors fully in respect of all claims, actions, proceedings, liability, loss, damage, costs and expenses which any such party may suffer as a result of any breach, or claimed breach, of the above warranty.

10. DEFECTS

10.1 Except in the following circumstances, and subject to clause 11, the Company shall have no liability to the Customer for breach of any warranty or condition, express or implied, statutory or otherwise as to materials, workmanship or fitness for purpose of the Goods.

10.2 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, if any, under clause 10.3 or 10.4 hereof as the case may be.

10.3 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.

10.4.1 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, subject to the Customer complying with clauses 10.4.2 and 10.4.3 hereof the Company shall be obliged, at its option, to repair or replace the defective Goods within a reasonable time, or to credit the Customer with the price of such defective Goods paid or payable by the Customer.

10.4.2 In the event of a claim by the Customer under either sub-clause 10.3 or 10.4.1, the Customer shall provide good evidence of the defects, and, if required, allow the Company a reasonable opportunity to inspect the Goods in order to verify the claim.

10.4.3 If the Company chooses to repair or replace the defective items, the Company may require the Customer, as a condition of the Company repairing or replacing the items, to return those items at the Company's expense where reasonably practicable, or if not so practicable to return the copyright page of each defective item to the Company.

11. LIMITATION OF LIABILITY

11.1 These conditions do not purport to exclude or restrict any liability for fraud or for death or personal injury caused by negligence or any other liability the exclusion or restriction of which is prohibited by Sections 2(1) and 6(1) of the Unfair Contract Terms Act 1977.

11.2 The Company shall not be liable to the Customer or to any third party for indirect or consequential loss or damage of whatever kind, whether caused by misrepresentation, breach of contract, tort or otherwise, including but not limited to loss of actual or potential revenue or profit, loss of business or business reputation, loss or damage to property, loss of opportunity, professional fees, costs or expenses, nor will the Company be liable to indemnify the Customer against any claims, actions, costs, expenses of any third party.

11.3 Subject to the foregoing, in addition to any specific exclusion or limitation of its liability herein, the Company's liability to the Customer shall not exceed the total price for the Contract to which the Customer's claim relates, so that in the event of one or more claim, the aggregate value of such claims shall not exceed the total price

12. PRODUCT SAFETY

12.1 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.

12.2 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.

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

13. ILLEGAL AND LIBELLOUS MATTER

13.1 The Company shall not be obliged 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.

13.2 The Customer hereby agrees to indemnify the Company in respect of all claims, actions, proceedings, liability, loss, damage, costs and expenses as a result of any breach, or claimed breach, of the above warranty.

14. 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 6.

15. 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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