

Standard Terms and Conditions of Contract

The buyer's attention is in particular drawn to the provisions of conditions 13.5

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this condition apply in these conditions.
Buyer: the person, firm or company who purchases the Goods and/or Services from the Company.
Company: Alphaprint (Colchester) Limited registered company number 1872463.
Contract: any contract between the Company and the Buyer for the sale and purchase of the Goods or supply Services, incorporating these conditions.
Delivery Point: the place where delivery of the goods is to take place under condition 4.
Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
Goods: any goods agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them)
Services: any services agreed in the Contract to be supplied to the Buyer by the Company.
- 1.2 A reference to a particular law 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.
- 1.3 Words in the singular include the plural and in the plural include the singular.
- 1.4 A reference to one gender includes a reference to the other gender
- 1.5 Condition headings do not affect the interpretation of these conditions

2. APPLICATION OF TERMS

- 2.1 Subject to any variation under condition 2.3 these conditions apply and shall be incorporated into the Contract which 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, trade custom, practice or course of dealing).
- 2.2 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract.
- 2.3 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods and/or Services shall have no effect unless expressly agreed in writing and not signed by an Officer of the Company. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.
- 2.4 The Buyer's order or acceptance of quotation for Goods and/or Services from the Company shall constitute an offer by the Buyer to purchase the Goods and/or Services specified in it subject to these conditions.
- 2.5 No offer placed by the Buyer shall be accepted or deemed to be accepted by the Company until:
 - (a) a written acknowledgment of order is issued by the Company; or
 - (b) (if earlier) the Company delivers the Goods to the Buyer or starts to perform the Services.
- 2.6 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.
- 2.7 Any quotation is given on the basis that no Contract shall come into existence except in accordance with clause 2.5 Any quotation is valid for a period of 30 days only from its date, provided that the Company had not previously withdrawn it.

3. DESCRIPTION

- 3.1 The quantity and description of the Goods shall be as set out in the Company's quotation or acknowledgment of order.
- 3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.
- 3.3 The Services will be provided in accordance with the quotation provided by the Company to the Buyer.

4. DELIVERY

- 4.1 Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place at the Company's place of business.
- 4.2 The Buyer shall take delivery of the Goods within 7 days of Company giving it notice that the Goods are ready for delivery.
- 4.3 Any dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 4.4 Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 180 days.
- 4.5 If for any reason the Buyer fails to accept delivery of any Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licenses or authorisations:
 - (a) risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence);
 - (b) the Goods shall be deemed to have been delivered; and
 - (c) the Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 4.6 The Buyer shall provide at the Delivery Point and at its expense adequate and appropriate equipment and manual labour for loading Goods.
- 4.7 If the Company delivers to the Buyer a quantity of Goods:
 - (a) in respect of orders under 50,000 copies, of an amount up to 5% more or less (in respect of work in one colour only) and up to 10% for all other works, than the Contract quantity; or
 - (b) in respect of all other orders, of an amount up to 4% more or less (in respect of work in one colour only) and up to 8% for all other work, than the Contract quantity;the Buyer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for such goods at the pro rata Contract rate.
- 4.8 The Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 4.9 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment.

5. NON-DELIVERY

- 5.1 The quantity of any consignment of Goods as recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.
- 5.2 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Buyer gives written notice to the Company of the non-delivery within 2 days of the date when the Goods would in the ordinary course of events have been received.
- 5.3 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

6. BUYER'S OBLIGATION

If the Company's performance of its obligations under the Contract is prevented or delayed by an act or omission of the Buyer or its agents the Company shall not be liable for any costs or charges or losses sustained or incurred by the Buyer arising directly or indirectly from such prevention or delay.

7. RISK/TITLE

- 7.1 The Goods are at risk of the Buyer from the time of delivery and the Company shall not be liable for any loss to the Buyer arising from delay in transit.
- 7.2 Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
 - (a) the Goods; and
 - (b) all other sums which are or which become due to Company from the Buyer on any account.
- 7.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:
 - (a) hold the Goods on a fiduciary basis as the Company's bailee;
 - (b) store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
 - (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
 - (d) maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company.
- 7.4 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:
 - (a) any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
 - (b) any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.
- 7.5 The Buyer's right to possession of the Goods shall terminate immediately if:
 - (a) the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefits of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the buyer or notice of intent to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or
 - (b) the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and its Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or
 - (c) the Buyer encumbers or in any way charges any of the Goods.
- 7.6 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
- 7.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.
- 7.8 Where the Company is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.
- 7.9 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition 7 shall remain in effect.

8. BUYER'S PROPERTY

- 8.1 All property supplied to the Company but belonging to the Buyer shall while it is in the possession of the Company or in transit to or from the Buyer be deemed to be at the Buyer's risk and it is agreed that the Buyer should insure the property accordingly.
- 8.2 The Company shall be entitled to make a reasonable charge for the storage of a Buyer's property left with the Company before the Contract is formed or after notification to the Buyer of completion of the work.
- 8.3 Where materials are supplied by the Buyer the Company reserves the right to reject such materials, which appear to it to be unsuitable. If materials are found to be unsuitable during production the Company reserves the right to make an additional charge to the Buyer in respect of additional work incurred.
- 8.4 Where the Buyer supplies or specifies materials responsibility will not be accepted by the Company for imperfect work caused by defects in the suitability or quality of the materials supplied or specified.
- 8.5 Quantities of materials supplied by the Buyer shall be adequate to cover usual spoilage.
- 8.6 In respect of all unpaid debts due from the Buyer to the Company, the Company shall have a general lien on all goods and property of the Buyer in its possession and shall be entitled on the expiration of 14 days notice to dispose of such goods and property in such a manner and at such price as it decides in its absolute discretion to apply the proceeds towards debt.

9. PRICE

- 9.1 Unless otherwise agreed by the Company in writing, the price for the Goods and/or Services shall be the price set out in the Company's quotation letter.
- 9.2 All quotations/estimates are based on the Company's current costs of production and are subject to amendment after the Contract is formed to reflect any change in the cost of production.
- 9.3 The price for the Goods and/or Services shall be exclusive of any value added tax and all additional costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods and/or Services.
- 9.4 All work carried out at the Buyer's request whether experimentally or as part of the process of designing the final product including proof documents or otherwise will be charged at such amount as the Company shall in its absolute discretion decide.

- 9.5 The Company may at its discretion make a charge where additional work is required when a Buyer supplies copies which are not clear and legible.
- 9.6 Where expedited delivery is required and agreed an additional charge may be made at the discretion of the Company.

10. PAYMENT

- 10.1 Subject to condition 10.4, payment of the price for the Goods is due in pounds sterling in full and cleared funds within 30 days of the receipt of each invoice submitted to it by the Company.
- 10.2 Time for payment shall be of the essence.
- 10.3 No payment shall be deemed to have been received until the Company has received cleared funds.
- 10.4 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision, including any right to claim interest under these conditions or under statute.
- 10.5 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.
- 10.6 Without prejudice to any other right or remedy the Company may have, if the Buyer fails to pay the Company any sum due pursuant to the Contract the Buyer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 2% above the base lending rate from time to time of Barclays Bank accruing on a daily basis until payment is made, whether before or after any judgment.
- 10.7 In the event that work on a Contract is suspended at the Buyer's request or delayed because of the Buyer's default for a period of 30 days or more the Company shall be entitled to payment of the Contract price and other additional costs including storage.
- 10.8 In the event that the Buyer fails to pay the Company any sum due under the Contract or is deemed unable to pay its debts as they fall due or has a winding up petition issued against it or being an individual commits an act of bankruptcy or has a bankruptcy petition issued against it the Company, without prejudice to other remedies available to it, shall have the right to suspend all production of Goods and/or provision of Services and proceed no further with the Contract and be entitled to charge for work already carried out (whether completed or not) and materials purchased for the Buyer, such charge to be an immediate debt due to it.
- 10.9 The Company may without prejudice to any other right it may have, set off any liability of the Buyer to the Company against any liability of the Company to the Buyer.
- 10.10 The Company reserves the right to request payment in advance of completion of the Contract and to request a deposit in respect of materials to be purchased for such amount as it shall in its absolute discretion decide.

11. COMPANY PROPERTY AND INTELLECTUAL PROPERTY RIGHTS

- 11.1 Metal, film, glass and other materials owned by the Company and used by it in the production of type, plates, moulds, stereotypes, electrolytes, film setting, negatives, positives and the like shall remain its exclusive property.
- 11.2 The Goods are sold and supplied by the Company subject to any Intellectual Property Rights of any third party and the Buyer will in this respect accept such title to the goods as the Supplier may have.
- 11.3 Any Intellectual Property Rights existing in designs, materials, websites, images or otherwise created by the Company under the Contract shall be owned by the Company. The Company licences all such rights to the Buyer on a non-exclusive basis to such an extent as is necessary to enable the Buyer to make reasonable use of the Goods and/or Services. The Buyer is not entitled to reproduce such designs, websites, images or otherwise in any form whatsoever without the written consent of the Company.
- 11.4 Where the Buyer provides the Company with the designs or other such proofs for printing the Buyer warrants that the designs or otherwise provided do not and will not after Contract had been performed infringe the Intellectual Property Rights of any other person and the Company shall be indemnified by the Buyer in respect of any claims, costs and expenses (including professional fees) arising out of any claim by a third party relating to any infringement of Intellectual Property Right contained in any Goods.

12. QUALITY

- 12.1 Where the Company is not the manufacturer of the Goods, the Company shall endeavour to transfer to the Buyer the benefit of any warranty or guarantee to the Company.
- 12.2 The Company warrants that (subject to the other provisions of these conditions) on delivery the Goods shall:
- (a) be of satisfactory quality within the meaning of Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982;
- (b) be reasonably fit for purpose; and
- (c) be reasonably fit for any particular purpose for which the Goods are being bought if the Buyer had made known that purpose to the Company in writing and the Company has confirmed in writing that it is reasonable for the Buyer to rely on the skill and judgement of the Company.
- 12.3 The Company warrants that (subject to the other provisions of these conditions) that the Services will be carried out with reasonable care and skill.
- 12.4 The Company shall not be liable for a breach of any of the warranties in condition 12.2 unless:
- (a) the Buyer gives written notice of defect to the Company, and, if the defect is as a result of damage in transit to the carrier within 1 day of the time when the Buyer discovers or ought to have discovered the defect; and
- (b) the Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Company's cost for the examination to take place there.
- 12.5 The Company shall not be liable for a breach of any of the warranties in condition 12.2 if:
- (a) the Buyer makes any further use of such Goods after giving such notice; or
- (b) the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
- (c) the Buyer alters or repairs such Goods without written consent of the Company.
- 12.6 Subject to condition 12.4 and condition 12.5, if any of the Goods do not conform with any of the warranties in condition 12.2 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, at the Company's expense, return the Goods or the part of such Goods which are defective to the Company.
- 12.7 If the Company complies with condition 12.6 it shall have no further liability for a breach of any of the warranties in condition 12.2 in respect of such Goods.
- 12.8 Any Goods replaced shall belong to the Company.

13. LIMITATION OF LIABILITY – THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF THIS CONDITION

- 13.1 Subject to condition 4, condition 5 and condition 12, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents

and sub-contractors) to the Buyer in respect of:

- (a) any breach of these conditions;
- (b) any use made or resale by the Buyer of any of the Goods, or part of them, or of any product incorporating any of the Goods, or of the Services; and
- (c) any representation, statement or tortious, act or omission including negligence arising under or in connection with the Contract.
- 13.2 All warranties, conditions and other terms implied by the statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 13.3 Nothing in these conditions excludes or limits the liability of the Company:
- (a) for death or personal injury caused by the Company's negligence; or
- (b) under section 2(3), Consumer Protection Act 1987; or
- (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
- (d) for any damage or liability incurred by the Buyer as a result of fraud or fraudulent misrepresentations.
- (e) for any liability incurred to the Buyer as a result of any breach by the Company of the conditions as to:
- (i) title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982; and
- (ii) as to title implied by section 12 of the Sale of Goods Act 1979.
- 13.4 Nothing in these conditions seeks to exclude or limit a Consumer's statutory rights.
- 13.5 Subject to condition 13.2 and condition 13.3
- (a) the Company shall not be liable for:
- (i) loss of profits; or
- (ii) loss of business; or
- (iii) depletion of goodwill and/or similar losses; or
- (iv) loss of anticipated savings; or
- (v) loss of contract; or
- (vi) loss of goods; or
- (vii) loss of use; or
- (viii) loss of or corruption of data information; or
- (ix) or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses which arise out of or in connection with the Contract.
- (b) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentations, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price.
- 13.6 Proof documents may be submitted to the Buyer for the Buyer's approval prior to printing and the Company shall incur no liability for any errors not corrected by the Buyer in proofs so submitted.

14. ASSIGNMENT

- 14.1 The Company may assign the Contract or any part of it to any person, firm or company.
- 14.2 The Buyer shall not be entitled to assign the Contract or any part of it without prior written consent of the Company.

15. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, legalisation, failure of power supply, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 30 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

16. GENERAL

- 16.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 16.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 16.3 Failure or delay by the Company in enforcing or partially enforcing any provisions of the Contract by the Buyer shall not be construed as a waiver of any of its rights under the Contract.
- 16.4 Any waiver by the Company of any breach of, or default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of Contract.
- 16.5 The parties to the Contract do not intend that any term of Contract shall be enforceable by virtue of the Contracts (Right of Third Parties) Act 1999 by any person that is not a party to it.
- 16.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

17. COMMUNICATION

- 17.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:
- (a) (in case of communication to the Company) to its registered office or such changed address as shall be notified to the Buyer by the Company; or
- (b) (in the case of the communications to the Buyer) to the registered officer of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Buyer.
- 17.2 Communications shall be deemed to have been received:
- (a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- (b) if delivered by hand, on the day of delivery; or
- (c) if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.
- 17.3 Communication addressed to the Company shall be marked for the attention of Darren Pye.