

## **TERMS AND CONDITIONS OF TRADING**

### **1. QUOTATIONS**

- (a) Estimates are based on the current costs of production and, unless otherwise agreed, are subject to amendment by the printer before or after acceptance of the quotation to meet any rise and fall in such costs between the date of quotation and the date of execution of the order.
- (b) When quotations are based on specifications, samples or dummies or printed, typewritten or other good copy, any extra work or cost caused by any variation prepared by the customer of their original instructions or material being poorly submitted or described, shall be charged to the customer.
- (c) Once accepted by the customer, the printer's written quotation shall be deemed to interpret correctly the customer's instructions, whether written or verbal. Where verbal instructions only are received from the customer, the printer shall not be responsible for errors or omissions due to oversight or misinterpretation of those instructions.

### **2. TAX**

In addition to paying the price for the goods, the customer must pay an amount equal to the Goods and Services Tax (GST) associated with the supply of the goods without deduction or set off of any other amounts.

### **3. PRELIMINARY WORK**

All work carried out, whether experimentally or otherwise, at a customer's request will be charged to the customer unless otherwise expressly agreed by the printer in writing.

### **4. PROOFS**

Proofs of all work may be submitted for customer's approval and the printer shall incur no liability for any errors not corrected in proofs so submitted. Customer's alterations and additional proofs necessitated thereby shall be charged as an extra. When style, type or layout is left to the printer's judgement, changes therefrom made by the customer shall be charged as an extra.

### **5. ALTERATIONS OF STYLE**

Where the customer does not make a typographical style for a job, the printer may make a style for them and charge as corrections all variations from that style.

### **6. TABULATED WORK AND FOREIGN LANGUAGE**

Any tabulated work and or foreign language included in the job but not contained in the manuscript originally for the purpose of estimating, is chargeable as an extra.

### **7. AUTHOR'S CORRECTIONS**

All extra costs caused by author's corrections including resetting and/or the over-running of composition shall be charged as an extra.

### **8. OUTSIDE WORK**

Where the performance of any contract with the customer requires the printer to obtain goods or services from a third party, the contract between the printer and the customer shall incorporate and shall be subject to the conditions of supply of such goods and services to the printer, and the customer shall be liable for the cost in full of such goods or services.

### **9. RETENTION OF TITLE**

- (a) Property and ownership in the goods will not pass to the customer but will remain with the printer until payment of the purchase price of the goods in full and all other amounts owing to the printer by the customer have been received by the printer.
- (b) All risk in the goods shall pass to the customer on the date of the notice to the customer that the work has been completed and the customer shall insure (and keep insured) the goods.
- (c) If payment for the goods is not made by the customer to the printer within 7 days of the due date then the customer shall deliver the goods to the printer on demand.

## 10. PAYMENT

- (a) Subject to paragraph (b), payment is due and payable within the approved terms provided by McPherson's Printing Pty Ltd, or in the absence of terms approved by McPherson's Printing Pty Ltd payment is required on or before the last business day of the month following the month the invoice is rendered. Unless otherwise stated in writing by the printer, overdue accounts will attract an administration charge and/or interest charge at the current 90 day Bank Bill rate, plus 3%.
- (b) In the case of the first transaction between the parties, payment in full is required on acceptance of the quotation or the lodging of the order (whichever shall be the later) unless otherwise stated in writing by the printer.
- (c) After work has been in progress for one month the printer shall be entitled to request a progress payment amounting to 75% (or other such amount as the printer may stipulate from time to time) of the value of the work done which is payable by the customer on request from the printer.
- (d) The suspension by the customer of any work, for any reason, for a period exceeding thirty (30) days shall entitle the printer to request payment for work already carried out, materials specially ordered for that work and other additional costs including storage which is payable by the customer on request from the printer.

## 11. DELIVERY

- (a) A storage charge shall be applied at the rate of \$20 per pallet in the printer's warehouse as at the end of each calendar month that the goods are not collected by the customer after receipt of notification that the work has been completed.
- (b) The customer shall be deemed to have accepted the goods if, within fourteen days (or such other period as the printer may stipulate from time to time) of the date of the notice from the printer that the work has been completed, the customer fails to take possession of the goods or notify the printer in writing the goods have been rejected.
- (c) Should expedited delivery be agreed, reasonable efforts should be made by the

printer to secure freedom from defects but the printer shall not accept responsibility for defects caused as a result of the requirement for such early delivery. An extra charge may be made to cover any overtime or other additional cost incurred as a result of the requirement for such early delivery.

- (d) Every endeavour will be made to deliver the correct quantity ordered but estimates and/or orders are conditional upon a margin of 10 per cent, irrespective of number of colours, being allowed for overs or shortages. Such overs shall be charged for and shortages deducted.
- (e) Unless otherwise specified, the price quoted includes the cost of delivery of the goods to the customer's premises if situated within a radius of 16 kilometres of the printer's establishment. All quotations are based on continuous and uninterrupted delivery of complete orders unless original specifications state otherwise.
- (f) Claims against the printer should be made in writing within fourteen (14) days (or such period as the printer may stipulate from time to time) of the date of the notice from the printer that the work has been completed. Claims by the customer as *non-delivery* should be made in writing within 28 days (or such other period as the printer may stipulate from time to time) after despatch of the goods

## 12. SUITABILITY OF GOODS OR WORK

- (a) Subject to such statutory warranties as cannot validly be excluded, no warranty shall be given that the goods sold are or work done is suitable in size, shape, capacity, quality or otherwise for the purpose for which goods are brought or the work is done. The printer shall not be liable for any damage resulting from the unsuitability of the goods or the work, for any purpose for which the same may be used.
- (b) Liability for breach of a condition or warranty implied into this contract is limited to any one of the following as determined by the printer:
  - i. the replacement of the goods or the supply of equivalent goods; or
  - ii. the repair of the goods; or

- iii. the payment of the cost replacing the goods or of acquiring equivalent goods; or
  - iv. the payment of the cost of having the goods repaired.
- (c) This Clause 12 applies in respect of any of the goods supplied under this contract which are not of a kind ordinarily acquired for personal, domestic or household use or consumption, provided that this Clause will not apply if the customer establishes that reliance on it would not be fair and reasonable.

### **13. LIABILITY**

- (a) The printer shall not be liable for indirect or consequential loss or for any loss to the customer arising from third party claims occasioned by errors in carrying out the work or delay in delivery.
- (b) No warranty, other than statutory warranties, is given by the printer or responsibility accepted by him to ensure that goods produced comply with the requirements of any legislation relating to the making and/or labelling and/or packaging of goods. Compliance with the requirements of such legislation shall be the sale responsibility of the customer.
- (c) The customer indemnifies the printer and will at all times keep the printer indemnified against all loss, damage, claims, penalties, liabilities and expenses incurred or suffered by the printer arising out of any actual or alleged breaches of the Competition and Consumer Act 2010 (Cth) or any third party defamation, libel or slander claims against the printer in respect of the material supplied by the customer.
- (d) The customer warrants that it has all necessary rights and consents to reproduce copyright materials provided to the printer pursuant to this agreement. The customer indemnifies the printer and will at all times keep the printer indemnified against all loss, damage, claims, penalties, liabilities and expenses incurred or suffered by the printer arising out of any third party claims against the printer in relation to the infringement of any copyright or similar right at common law or under statute.
- (e) The customer acknowledges and accepts that the printer has the right to decline to

print any matter which it considers is, or may be, illegal, immoral, libellous, misleading, deceptive, indecent or scandalous or which may otherwise give rise to legal proceedings.

### **14. FORCE MAJEURE**

Contracts and deliveries may be suspended by the printer in the event of any strike, lockout, trade dispute, fire, flood, tempest, breakdown, riot, theft, crime, civic disturbance, war, terrorist activity, legislation, force majeure, the inability of the printer to procure necessary materials or articles due to any of the foregoing causes, or any other occurrence preventing or retarding performance of the contract or delivery or work and no responsibility shall be attached to the printer for any delay, default, loss or damage due to any of the above causes or to any other cause beyond the control of the printer.

### **15 ACCEPTANCE**

Acceptance of the printer's quotation shall be an acceptance of these terms and conditions, notwithstanding any inconsistencies which may be introduced by terms and conditions contained in the customer's order, unless otherwise expressly agreed by the printer in writing.

### **16. GENERAL LIEN**

The printer shall, in respect of all unpaid debts due from the customer, have a general lien on all goods and property in his hands and shall be entitled on the expiration of 14 days (or such other period as the printer may stipulate) give notice to the customer to dispose of such goods or property as they think fit and to apply the proceeds towards such debts.

### **17. WAIVER**

Notwithstanding that the printer might agree in respect of any particular transaction either expressly or by implication to waive any or more of these terms and conditions, such agreement shall in no way release the customer from any other obligation or requirement set out herein.

### **18. STANDING MATERIAL**

At the discretion of the printer, all plates, files, cutting forms and other surfaces etc., may be destroyed immediately on completion of work unless otherwise agreed by the printer in writing. All matter kept standing by the printer at the request of the customer shall remain the

absolute property of the printer. If at the request of the customer the printer agrees to keep matter standing, an additional charge may be made for storage, maintenance and any other necessary attention.

#### **19. CUSTOMER'S PROPERTY AND MATERIAL SUPPLIED BY CUSTOMER**

- (a) Customer's property and all property and material supplied to the printer by or on behalf of the customer (including goods in transit) will be held at the customer's risk, and the printer accepts no liability whatsoever for loss of, or damage to, such property or material unless otherwise agreed by the printer in writing.
- (b) Unless otherwise agreed in writing by the printer, the printer accepts no responsibility for insurance of such property or material. In event of the Printer's agreeing in writing to insure property or material, the cost of insurance premiums shall be charged to the customer.
- (c) Unless the customer establishes that reasonable degree of care has not been exercised by the printer the risk and cost of all spoilage of materials supplied by the customer shall be borne by the customer.
- (d) Where the customer supplies materials, adequate quantities shall be supplied to cover spoilage. Sheets and other materials shall not be counted or checked when received unless requested by the customer in writing. An additional charge may be made by the printer in respect of any such counting or checking requested by the customer.
- (e) In the case of property and material left with the printer without specific instructions, the printer shall be free to dispose of them at the end of twelve months after receiving them and to accept and retain the proceeds, if any, to cover their own costs in holding and handling them.
- (f) Where materials or equipment are supplied by the customer the printer accepts no responsibility for imperfect work caused by defects in or unsuitability of such materials or equipment.
- (g) An extra charge may be made by the printer for handling or storing property or material supplied by or on behalf of the customer.

- (h) Anchored blocks or soldered or patched plates are accepted at the risk of the customer and no responsibility is accepted by the printer for damage to such blocks or plates. Any necessary repairs to or loss of time caused by them shall be paid by the customer. The printer accepts no responsibility whatsoever for the quality of work produced by him when using such blocks or plates which have been supplied by the customer.
- (i) Any change or correction to any film, files, bromides, artwork and/or any printing surface supplied by the customer, necessary to ensure properly finished work, shall be paid for by the customer.

#### **20. OWNERSHIP OF DRAWINGS, BLOCKS, ENGRAVINGS, ELECTROTYPES, ETC.**

- (a) Dummies, models or the like devices made or produced and manipulated by the printer and blocks, engraving, stencils, dies, plates or cylinders made from the printer's original design, or from a design furnished by the customer, remain the exclusive property of the printer unless otherwise agreed upon in writing.
- (b) Sketches and dummies submitted by the printer on a speculative basis shall remain the property of the printer. They shall not be used for any other purpose other than that nominated by the printer and no ideas obtained therefrom may be used without the consent of the printer. The printer shall be entitled to compensation from the customer for any unauthorised use of such sketches and dummies.

#### **21. CHANGE TO THESE TERMS**

The printer reserves the right to change these terms and conditions and any other information it has issued to the customer from time to time. If the printer introduces a new fee or charge, or adjusts its invoicing procedures, the customer will be given at least 30 days' notice. Notice of any other change will be given by such method as the printer shall decide no later than the date on which the change takes place.

#### **22. GENERAL**

These terms and conditions are to be read subject to mandatory provisions of legislation of the Commonwealth of Australia or of one or more of the States or Territories in so far as such provisions are applicable. The invalidity of

any clause or part of a clause shall not affect any other or other part of the clause.