

1 Interpretation

1.1 In these Conditions the following words shall have the following meanings:

"Artwork"	work supplied by or on behalf of the Customer to enable the Company to print labels and/or create Reprographic Output Springfield Solutions Limited
"Company"	the standard terms and conditions of business set out in this document, the Company's quotation and written acknowledgement of order and (unless the context otherwise requires) any special terms and conditions agreed in writing between the Company and the Customer
"Conditions"	the contract between the Company and the Customer for the sale and purchase of the Products and provision of Reprographic Services, incorporating these Conditions
"Contract"	the person, firm or company who purchases the Products or Reprographic Services from the Company
"Customer"	fonts in respect of which the intellectual property rights are owned by a third party
"Fonts"	Labels printed with reproductions of the artwork
"Labels"	Labels and/or Reprographic Output, as applicable
"Products"	a printers proof created by the Company or supplied by or on behalf of the Customer to enable the Company to print the labels
"Proof"	the price payable by the Customer for:-
"Price"	<ul style="list-style-type: none"> ▪ the production and supply of the Products; ▪ the provision of the Reprographic Services; and ▪ any changes to the Products, Proofs and/or Reprographic Services
"Reprographic Output"	electronic files or analogue material comprising reproductions of the Artwork to be used for the printing of labels, packaging and other materials
"Reprographic Services"	the creation of Reprographic Output based upon and using the Artwork

2 Application of Conditions

- 2.1 These Conditions shall govern the Contract to the exclusion of any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document and the Customer waives any right which it might have to rely on such terms or conditions.
- 2.2 No variation to these Conditions or any representation about the Products or Reprographic Services shall have effect unless expressly agreed in writing and signed by a duly authorised representative of the Company.
- 2.3 Each order for Products or Reprographic Services by the Customer from the Company shall be deemed to be an offer by the Customer to purchase Products or Reprographic Services subject to these Conditions.
- 2.4 No order placed by the Customer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Products to the Customer or, at the instruction of the Customer, to a third party.
- 2.5 The Customer shall ensure that the terms of its order and any applicable specification are complete and accurate.
- 2.6 Any quotation is given on the basis that no contract will come into existence until the Company despatches an acknowledgement of order to the Customer or (if earlier) the Company delivers the Products to the Customer or, at the instruction of the Customer, to a third party. Any quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.

3 Proof

- 3.1 Where the Company creates a Proof or Reprographic File the Company shall send the Proof or Reprographic File to the Customer for approval.
- 3.2 The Customer shall, in writing, as soon as reasonably practicable either confirm their acceptance of such Proof or Reprographic File or identify, in sufficient detail, any alterations that they may require.
- 3.3 If any alterations notified to the Company arise as a result of any failure by the Company to comply with any specification expressly set out in the order, or any subsequent amendment, accepted by the Company, such alterations shall be made free of charge. In any other circumstance, unless agreed otherwise, the Company shall submit on quotation for such alterations to the Customer. For the avoidance of doubt the provisions of paragraph 2 and, in particular, paragraph 2.6 shall apply to such quotation and any subsequent order for alterations.
- 3.4 The Company accepts no liability whatsoever for any approval of Proofs or Reprographic Output or requests for alterations that are given by the Customer otherwise than in writing.
- 3.5 The Company shall be under no obligation to carry out any further work until such time as any approval or request for alteration has been given and, subject to paragraph 2.6, quotation in relation thereto accepted. If no written approval, request for alteration or acceptance of quotation has been received by the Company within 3 months of submission of the Proof, Reprographic File or quotation to the Customer the Company shall be entitled to deem the contract completed and invoice the Customer for work carried out to such date.

4 Delivery and Completion

- 4.1 Unless otherwise agreed in writing by the Company:
- 4.1.1 delivery of the Products shall take place on delivery to the address for delivery supplied by the Customer, where the Products comprise Labels; and
- 4.1.2 completion of the Reprographic Services shall take place upon transmission to the address supplied by the Customer, where the Products comprise Reprographic Output in a format capable of electronic transmission or delivery to the address for delivery supplied by the Customer where the Products comprise Reprographic Output on CD-Rom or other analogue output including films, printing plates or proofs.
- 4.2 Any date specified by the Company for delivery of the Products and/or completion of the Reprographic Services is an estimate only and time for delivery shall not be made of the essence by notice. If no date has been so specified, delivery will be within a reasonable time.

4.3 Subject to the other provisions of these Conditions, the Company shall not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Products or completion of the Reprographic Services nor will any delay entitle the Customer to terminate or rescind the Contract. The Company may at its option and by giving the Customer prior notice provide delivery in instalments.

4.4 If for any reason the Customer will not accept delivery of any of the Products when they are ready for delivery, or the Company is unable to deliver the Products on time because the Customer has not provided appropriate instructions, documents or authorisations, risk in the Products will pass to the Customer and the Company may store them until actual delivery and the Customer will be liable for all related costs and expenses (including without limitation storage and insurance).

4.5 The Customer shall ensure that the Company, its employees and agents have safe and proper means of access to the Customer's delivery point for its vehicles. The Customer shall be responsible for unloading the Products from the vehicle and shall provide all necessary personnel, equipment, means and facilities for such unloading. If the Customer does not comply with these obligations the Company shall be entitled to withhold delivery and/or charge the Customer for any additional costs and time thereby incurred.

4.6 Where the Products are delivered in instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated

5 Shortfalls in Delivery

- 5.1 The quantity of any delivery of Products as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.
- 5.2 The Company shall not be liable for any shortfall in delivery of Products unless written notice is given to the Company within 5 working days of delivery.
- 5.3 Any liability of the Company for any shortfall in delivery of Products shall be limited to making good the shortfall within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Products.

6 Price

- 6.1 Unless otherwise agreed in writing by the Company, the Price
- 6.2 shall be in accordance with the Company's quotation, or so far as any Products or Reprographic Services have not been included within such quotation, the Company's price matrix in force at the date of acceptance of the Customer's order or, as applicable, the date of any change to the Products, Proofs and/or Reprographic Services requested by the Customer.
- 6.3 The Price is, unless otherwise stated, exclusive of value added tax or any other applicable taxation and, the Company's charges for carriage, insurance and packing which the Customer shall pay in addition.
- 6.4 The Company shall be entitled to increase the Price in the event of any material increase in its costs of producing the Products and/or providing the Reprographic Services, including, without limitation the cost of raw materials or labour.

7 Payment

- 7.1 Payment of the Price is due within 30 days of the date of invoices or earlier, in accordance with paragraphs 7.2 or 8.3 below. Time for payment is of the essence.
- 7.2 All sums payable to the Company under the Contract shall become due immediately upon termination of the Contract despite any other provision.
- 7.3 The Customer shall make all payments due under the Contract without any deduction by way of set-off, counterclaim, discount, abatement or otherwise.
- 7.4 If the Customer fails to pay the Company any sum due pursuant to the Contract the Customer will be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 3% above the base lending rate from time to time of the Company's bankers accruing on a daily basis until payment is made, whether before or after any judgment.

8 Risk and Ownership

- 8.1 The Products shall be at the risk of the Customer from the time of delivery to the Customer.
- 8.2 Ownership of the Products shall not pass to the Customer until the Company has received in full in cash or cleared funds:
- 8.2.1 all sums payable in respect of the Products; and
- 8.2.2 all other sums which are or which become payable to the Company from the Customer on any account including any interest on such sums.
- 8.3 The Customer's right to possession of the Products shall terminate and the Price shall become due and payable immediately if:
- 8.3.1 the Customer has a bankruptcy order made against it or makes an arrangement or composition with its creditors or (being a body corporate) convenes a meeting of creditors or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented for the winding up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency of the Customer; or
- 8.3.2 the Customer encumbers or in any way charges any of the Products or suffers or allows any execution to be levied on its property or obtained against it, or fails to observe or perform any of its obligations under the Contract or any other contract between the Company and the Customer, or is unable to pay its debts or the Customer ceases to trade.
- 8.4 The Company shall be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not passed from the Company.
- 8.5 The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Products are or may be stored

in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.

- 8.6 The Customer shall insure the Products (with the name of the Company noted on the policy until title passes pursuant to paragraph 8.2 or until the Company retakes possession of them) from the time that risk passes and shall produce the policy to the Company for inspection on request. Until title to the Products passes to the Customer as aforesaid, the Customer must hold any proceeds of such insurance on trust for the Company and not mix them with any other money, nor pay such proceeds into an overdrawn bank account. If the Customer fails to insure the Products, the Company may do so and recover the cost from the Customer.

9 Warranties

9.1 The Customer warrants that:

- 9.1.1 all Artwork is the absolute property of the Customer or that the Customer has the right to authorise the Company to use such Artwork for the purpose of the Contract;

9.1.2 where the Artwork comprises Fonts or the Customer supplies Fonts separately for the Company's use, the Customer has obtained all necessary licences to authorise the Company to use such Fonts for the purpose of the Contract; and

9.1.3 the Company's use of the Artwork and/or such Fonts for the purpose of the Contract will not infringe the intellectual property right of any third party

9.2 and the Customer hereby agrees to indemnify and keep fully indemnified the Company in respect of all damages, costs, expenses or other liabilities whatsoever suffered or incurred or agreed to be paid by the Company as a result of a breach by the Customer of its warranties in this paragraph 9.1.

9.3 The Company warrants (subject to the other provisions of these Conditions) that upon delivery:

9.3.1 where the Products comprise Labels, those Labels will in all material respects match the Proof supplied or approved by the Customer; and

9.3.2 where the Products comprise Reprographic Output, those Reprographic Output will be produced to industry standards and will in all material respects match the Artwork.

9.4 The Company shall not be liable for a breach of warranty in paragraph 9.2 if:

9.4.1 any breach, including without limitation any mismatch of colour, is not material;

9.4.2 the breach arises from changes requested by or otherwise as a result of the instructions of the Customer;

9.4.3 the Customer fails to give written notice of any defect to the Company within 5 working days of delivery of the Products or completion of the Reprographic Services;

9.4.4 following a request by the Company, the Customer fails to afford the Company a reasonable opportunity to examine the Products or (if requested by the Company) fails to return the Products to the Company's place of business at the Customer's expense for the Company to examine the Products there; or

9.4.5 the Customer makes any commercial use of the Products before or after giving notice of any defect.

9.5 Subject to paragraph 9.3, if any of the Products or the Reprographic Services do not conform with the Company's warranty in paragraph 9.2 the Company shall at its option replace such Products or re-supply the Reprographic Services or refund the price of such Products or Reprographic Services at the pro rata Contract rate and shall have no further liability for breach of warranty. If the Company so requests, the Customer shall, at the Customer's expense, return the Products which are defective to the Company.

10 Limitation of Liability

10.1 Subject to paragraph 9, the following provisions set out the entire liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

10.1.1 any breach of these Conditions;

10.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract; and

10.1.3 any other liability howsoever arising in relation to the Contract, the Products and/or the Reprographic Services.

10.2 Save as expressly set out in these Conditions all warranties, conditions and other terms implied by statute common law or otherwise are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Nothing in these Conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.

THE CUSTOMER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF PARAGRAPH 10.4

10.4 Subject to paragraph 10.2 and 10.3:

10.4.1 the Company shall not be liable to the Customer for loss of profit, goodwill or business opportunity or production downtime or any type of indirect or consequential loss or damage, costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract; and

10.4.2 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the price of the Products or the Reprographic Services as applicable the subject of the claim.

10.5 The Customer expressly acknowledges that, if it shall specify a third party printer for printing using the Reprographic Output and Proofs produced by the Company, the Company shall produce such Reprographic Output and Proofs to such specifications as the Company holds in relation to such printer at the date of acceptance of the Customer's order. It is the Customer's responsibility to ensure that the necessary specification required by any printer nominated by it is notified to the

Company and the Company accepts no liability whatsoever for any loss, liability damage or expense caused as a result of the production of Reprographic Output or Proofs to a specification different to that required by the nominated printer due to any failure to notify the Company of the printers required specification. If the Company is notified, following the date of acceptance of the Customer's Order, of any specification which is different from that currently held by the Company in relation to the Customer's nominated printer the Company shall produce the Proofs and Reprographic Output to such specification but shall be entitled to make an additional charge to reflect any additional work that may be required in order to comply with such revised specification.

11 Intellectual Property Rights

11.1 The intellectual property rights in the Artwork shall at all times remain the property of the Customer or the owner of the Artwork.

11.2 In the event the Company obtains any intellectual property rights in or relating to the Artwork as a result of performing the Contract, all such rights shall be and remain vested in the Company.

12 Events beyond the Company's control

12.1 The Company reserves the right to defer the date of delivery or completion or to cancel the Contract or to reduce the volume of the Products ordered by or Reprographic Services to be provided to the Customer (without liability to the Customer) if the Company 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, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

13 General

13.1 The Customer shall not assign the Contract or any part of it without the prior written consent of the Company.

13.2 The Company shall be entitled to assign the Contract or any part of it to any person, firm or company.

13.3 The Customer shall not use the Company's name, logo or other intellectual property rights in advertising or publicity without the Company's prior written consent.

13.4 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 the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

13.5 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.

13.6 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Customer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.

13.7 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving notice.

13.8 Nothing in these Conditions confers on any third party any benefit or any right to enforce any of these Conditions.

13.9 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the jurisdiction of the English courts.