

James Townsend & Sons Ltd - Conditions of Sale

GENERAL – James Townsend & Sons Limited (hereinafter called “the Company”) accepts orders subject to these Conditions of Sale to the exclusion of any Conditions of the Buyer, unless otherwise specifically agreed in writing. In addition, every such order shall be subject to such further terms and conditions as may be found on the Company's estimate and/or the invoices covering the products ordered. Such terms and conditions shall prevail in the event of any inconsistency with the terms hereof.

PRICE VARIATION – Estimates are based on the Company's current costs of production, obtaining and paying for goods and materials and, unless otherwise agreed, are subject to amendment on or at any time after acceptance to meet any rise or fall in such costs, including increases attributable to alterations in tax, duty, or in the exchange rates of any currency.

TAX – While it is normal practice to refer to value added tax on the estimate and invoice, the Company reserves the right to charge the amount of any value added tax payable whether or not included on the estimate or invoice.

PRELIMINARY WORK – All work carried out, whether experimentally or otherwise, at the customer's request shall be charged.

COPY – A charge may be made to cover any additional work involved where copy supplied is not clear and legible.

PROOFS – Proofs of all 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 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.

DELIVERY AND PAYMENT – (a) Delivery of work shall be accepted when tendered and thereupon or, if earlier, on notification that the work has been completed the risk shall pass to the customer and payment shall become due.

(b) Property in the goods shall not pass to the customer until all sums due to the Company from the customer under this or any other contract have been paid. Until property in the goods passes to the customer the customer shall

(i) hold the goods and each of them on a fiduciary basis as bailee for the Company; and

(ii) store the goods separately from all other goods and marked so that they are clearly identified as the Company's property.

(c) The Company shall be entitled to recover the price (plus VAT) notwithstanding that property in any of the goods has not passed from the Company.

(d) Until property in the goods passes from the Company the customer shall upon request deliver the goods to the Company. If the customer fails to do so the Company may enter upon any premises owned occupied or controlled by the customer where the goods are situated and repossess the goods.

(e) Any dates quoted for delivery of the goods are approximate only and the time for delivery shall not be of the essence of the contract.

(f) Unless otherwise specified the price quoted is for delivery of the work to the customer's address as set out in the estimate. A charge may be made to cover any extra costs involved for express delivery or delivery to a different address.

(g) Should work be suspended at the request of or delayed through any default of the customer for a period of 30 days the Company shall then be entitled to payment for work already carried out, materials specially ordered and other additional costs including storage.

(h) If the customer fails to take delivery of the goods within 90 days of any date specified for delivery or receipt of order (whichever is applicable) then, without prejudice to any other right or remedy available to the Company, the Company may store the goods until actual delivery and charge the customer for the reasonable costs of storage or sell the goods at the best price readily obtainable and charge the customer for any shortfall below the price under the contract. At any time, the Company may deliver the goods to the customer who will accept delivery of the goods and pay on demand any reasonable delivery costs incurred by the Company.

(i) Unless otherwise agreed all sums shall be payable in Sterling at the Company's principal place of business in the United Kingdom. Should payments in a different currency be provided, in the event of a devaluation of such currency relative to sterling after the date of the contract, any prices or charges may be increased in proportion with the alteration in the parity rate between such currency and sterling.

VARIATIONS IN QUALITY – Every endeavour will be made to deliver the correct quantity ordered, but estimates are conditional upon margins of 5 per cent for work in one colour only and 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 be charged or deducted.

CLAIMS – Claims arising from damage, delay or partial loss of goods in transit must be made to the Company and the carrier so as to reach them within three clear days of delivery and claims for non-delivery within 28 days of despatch of the goods. Other claims must be made to the Company within 28 days of delivery. All claims must be made in writing. The Company shall not be liable in respect of any claim unless made in accordance with this clause.

LIABILITY – (a) The Company shall not be liable for any loss of profit or any indirect, special or consequential loss or damage or any third party claims occasioned by delay in completing the work or for any loss to the customer arising from delay in transit.

(b) Where work is defective for any reason, including negligence (but excluding negligence resulting in death or personal injury), the Company's liability (if any) shall be limited to rectifying such defect.

(c) It is the responsibility of the customer to check machine readable codes before distribution of the product; the Company shall not be responsible for losses arising from the failure of the customer to do so.

(d) In the case of machine readable codes or symbols the Company shall print the same as specified or approved by the customer in accordance with generally accepted standards and procedures.

(e) The customer shall be responsible for satisfying himself that the code or symbol will read correctly on the equipment likely to be used by those for whom the code or symbol is intended.

(f) The customer shall indemnify the Company against any claim by any party resulting from the code or symbol not reading or not reading correctly for any reason, except to the extent that such claim arises from any failure of the Company to comply with paragraph (d) above which is not attributable to error falling within the tolerances generally accepted in the trade in relation to printing of this sort.

STANDING MATERIAL – (a) Metal, film, glass, electronic data and any other materials owned by the Company and used by him in the production of type, plates, moulds, stereotypes, electrotypes, film-setting, negatives, positives and the like shall remain his exclusive property. Such items when supplied by the customer shall remain the customer's property.

(b) 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. In the latter event, rent may be charged.

CUSTOMER'S PROPERTY – (a) While reasonable care will be taken of customer's property, subject thereto such property and all property supplied to the Company by or on behalf of the customer will be held at customer's risk and the customer should insure unless otherwise agreed.

(b) 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 work.

(c) The Company has a general and particular lien over all items stored at its premises for all claims and money owing by the customer to the Company under any contract whatsoever. Until all sums outstanding have been paid, during the currency of the said lien, the Company is entitled to be paid storage charges at the same rate as under the agreement. In case any lien is not satisfied and the goods are not collected within 30 days from the date upon which the Company first gave notice of the exercise of their lien, the goods may be sold and the proceeds of sale applied towards the satisfaction of every such lien and all related charges and expenses.

MATERIAL SUPPLIED BY THE CUSTOMER – (a) The Company may reject any paper, plates or other materials supplied or specified by the customer which appear to him to be unsuitable. Additional cost incurred if materials are found to be unsuitable during production may be charged except that if the whole or any part of such additional cost could have been avoided but for unreasonable delay by the Company in ascertaining the unsuitability of the materials then that amount shall not be charged to the customer

(b) 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 or unsuitability of materials so supplied or specified.

(c) Quantities of materials supplied shall be adequate to cover normal spoilage.

INSOLVENCY – If the customer ceases to pay his debts in the ordinary course of business or cannot pay his debts as they become due or being a company is deemed to be unable to pay its debts or has a winding-up petition issued against it or being a person commits an act of bankruptcy or has a bankruptcy petition issued against him, the Company without prejudice to other remedies shall

(a) have the right not to proceed further with the contract or any other work for the customer and be entitled to charge for work already carried out (whether completed or not) and materials purchased for the customer, such charge to be an immediate debt due to him, and

(b) in respect of all unpaid debts due from the customer have a general lien on all goods and property in his possession (whether worked on or not) and shall be entitled on the expiration of 14 days' notice to dispose of such goods or property in such manner and at such price as he thinks fit and to apply the proceeds towards such debts.

ILLEGAL MATTER – (a) The Company shall not be required to print any matter which in his opinion is or may be of an illegal or libellous nature or an infringement of the proprietary or other rights of any third party.

(b) The Company shall be indemnified by the customer in respect of any claims, costs and expenses arising out of any libellous matter or any infringement of copyright, patent, design or of any other proprietary or personal rights contained in any material printed for the customer. The indemnity shall extend to any amounts paid on a lawyer's advice in settlement of any claim.

PERIODICAL PUBLICATIONS – A contract for the printing of a periodical publication may not be terminated by either party unless 13 weeks' notice in writing is given in the case of periodicals produced monthly or more frequently or 26 weeks' notice in writing is given in the case of other periods. Notice may be given at any time but wherever possible should be given after completion of work on any one issue. Nevertheless the Company may terminate any such contract forthwith should any sum due thereunder remain unpaid.

FORCE MAJEURE – The Company shall be under no liability if he shall be unable to carry out any provision of the contract for any reason beyond his control including (without limiting the foregoing) Act of God, legislation, war, fire, flood, drought, failure of power supply, lock-out, strike or other action taken by employees in contemplation or furtherance of a dispute or owing to any inability to procure materials required for the performance of the contract. During the continuance of such a contingency the customer may by written notice to the Company elect to terminate the contract and pay for work done and materials used, but subject thereto shall otherwise accept delivery when available.

LAW – These conditions and all other express terms of the contract shall be governed and construed in accordance with the laws of England.