

TERMS AND CONDITIONS OF TRADING

1. Definitions

In these Conditions:-

"the Company" means an independently owned business, Spot On Design and Print (NW) Ltd trading as Spot On Design and Print;

"the Customer" means the person, firm, company or organisation who orders the Commissioned Work pursuant to these Conditions;

"the Customer's Materials" means all materials delivered to the Company by the Customer;

"the Commissioned Work" means the physical design work, copying, printing or other work howsoever described including where the context so admits, each edition of a periodical publication ordered by the Customer from the Company;

"Intellectual Property Rights" means any copyright, design right, registered design, trade mark whether registered or not, right of confidentiality or any other similar right whether arising in the United Kingdom or elsewhere in the world.

"Origination Items" is defined in Condition 20(b)

2. Application

The Company and the Customer shall contract subject to these Conditions which shall govern their relationship to the exclusion of any other terms and conditions contained or referred to in the Customer's order or in correspondence or elsewhere or implied by trade custom, practice or course of dealing and any purported provisions to the contrary are hereby excluded. No variation of these Conditions shall be binding upon the Company unless made in writing and signed by a duly authorised representative of the Company.

3. Prices

(a) Unless expressly stated to the contrary all costs and fees are exclusive of any applicable value added or any other sales tax and any applicable delivery charges, for which the Customer shall be additionally liable.

(b) The Company reserves the right to increase any part of the costs or fees payable:-

(i) in respect of design work where the Customer's requirements are not clear, necessitating the production of additional proofs;

(ii) where poor quality artwork is provided by the Customer necessitating the use of metal plates;

(iii) where the Commissioned Work is ordered more than ten working days prior to delivery, to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company such as, without limitation, increases in the costs of labour, materials or other costs, any change in delivery dates, quantities or specifications requested by the Customer, any delay caused by any instructions of the Customer, failure of the Customer to give the Company adequate information or instructions or failure of the Customer to supply clear or legible copy.

The Company shall notify the Customer of the amount of any increase prior to carrying out any further work. The Customer shall have the right to cancel the order if the price has increased by more than 10% as soon as reasonably practicable on receiving notification of such increase but shall pay the Company on a pro rata basis calculated from the costs and fees originally agreed for any part of the Commissioned Work which had been completed at the time of cancellation of the order.

(c) Without prejudice to the above, the Company will not be bound by any estimate given until it has received complete instructions and has had sight of and accepted the Commissioned Work required.

(d) Unless otherwise agreed in writing by the Company, payment of the Company's invoices shall be made at time of delivery of the Commissioned Work.

(e) Customers may apply to become credit account Customers which application may be accepted at the Company's sole discretion. Credit account Customers shall pay the Company within 30 days of the date of the Company's invoice.

(f) If the Customer fails to make payment on the due date, the Company shall be entitled to charge the Customer interest under the Late Payment of Commercial Debts (Interest) Act. This sub-clause shall continue to apply notwithstanding that the Company obtains judgment against the Customer. The Company reserves the right to pass on to, and claim from, the Customer any costs, including court costs, incurred in the recovery of any late payments.

(g) The Company may require the Customer to pay a deposit at the time the order is placed. Furthermore, if in the opinion of the Company, the creditworthiness of the Customer shall have deteriorated prior to delivery, the Company may require full or partial payment of the price prior to delivery.

(h) The Company reserves the right to suspend work in the event of non-payment, especially where it is a job with instalments, or a publication.

(i) Any outstanding sums become immediately due and payable on termination by the Company for whatever reason.

4. Preliminary Work

The Company shall charge and the Customer shall pay the Company for all preliminary work carried out, whether experimental or otherwise, at the Customer's request. In the event that the Company accepts early termination by the Customer of any preliminary work, the Customer shall pay the Company for the preliminary work, if any, carried out prior to such termination on a pro rata basis.

5. Proofs

It shall be the responsibility of the Customer to inspect all proofs submitted for approval and the Company shall not be liable to the Customer for any errors not corrected by the Customer in proofs so submitted. The Customer's alterations, except typographical errors made by the Company, and any additional proofs necessitated thereby shall be charged extra to the Customer.

6. Full Colour Printing

(a) Due to the nature of the processes involved, the Company does not guarantee that the Commissioned Work will match the Customer's Materials in colour, saturation or texture.

(b) Customers who require colour reproduction to a specific standard must state this requirement in writing in their order and request a set of wet proofs for each item to be printed. An additional charge shall be made to the Customer for this service which shall be agreed with the Customer prior to commencement of the Commissioned Work.

(c) The Customer shall be responsible for ensuring that the Customer's Materials supplied are suitable for full colour printing and the Customer's attention is brought to Condition 19(b) in this respect.

7. Variations in Quantity

The Company shall endeavour to deliver the correct quantity of the Commissioned Work but orders for the Commissioned Work are accepted on the condition that the Customer accepts a margin of 5% (or 10% for colour copies) for over supply or shortfalls in quantity.

8. Delivery

Delivery of the Commissioned Work shall be made by the Customer collecting the Commissioned Work at the Company's premises at any time after the Company has notified the Customer that the Commissioned Work is ready for collection or, if some other place for delivery is agreed by the Company, by the Company delivering the Commissioned Work to that place.

9. The Company shall endeavour to fulfil all orders which may from time to time be placed with it by the Customer and shall endeavour to comply with delivery dates quoted but the time for delivery shall not be of the essence. **THE COMPANY SHALL NOT BE LIABLE FOR ANY LOSS DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO ANY DELAY BEYOND THE STATED DELIVERY DATE.**

10. Where the order is to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more of the instalments shall not entitle the Customer to treat the order as a whole as repudiated or cancelled.

11. Risk & Title

The risk in the Commissioned Work shall pass to the Customer on delivery and the Customer should therefore be insured accordingly.

12. Notwithstanding delivery and passing of risk, the legal property in and beneficial ownership of the Commissioned Work shall remain with the Company until the Customer has paid all money owed by it to the Company.

13. The Company may for the purpose of checking that these Conditions are being complied with or recovering the Commissioned Work enter upon any premises where it is stored or where the Company reasonably believes it to be stored.

14. Until payment is made the Customer shall possess the Commissioned Work as fiduciary bailee and agent only and shall store each item of the Commissioned Work securely and separately from the Customer's own goods or those of any other person or previously Commissioned Work and in a manner which makes them readily identifiable by reference to the Company's invoices.

15. The Customer's right to possession of the Commissioned Work shall cease if any of the events described in Condition 27 occurs.

16. The Customer grants the Company an irrevocable licence to enter any time any vehicle or premises owned or occupied by the Customer or in its possession for the purpose of repossessing and removing any of the Commissioned Work the property in which has remained in the Company under Condition 12. The Company shall not be responsible for and the Customer will indemnify the Company against liability in respect of damage caused to such vehicles or premises in such repossession and removal being damage it was not reasonably practicable to avoid.

17. Conditions 11, 12, 13, 14, 15 and 16 are without prejudice to the Company's rights and remedies if the Customer fails to make payment on the due date or is otherwise in breach of the terms of these Conditions.

18. Standing Material

All metal, film, glass and other materials used by the Company in the production of type, plates, moulds, stereotypes, electrotypes, film settings, negatives, positives and the like belong to the Company absolutely subject to Condition 20 opposite regarding origination items.

19. Customer's Materials

(a) Whilst the Company shall endeavour to preserve the Customer's Materials in good order (subject to such wear and tear as may be incurred in the course of printing or carrying out the design work), they remain at the Customer's risk and liability for damage to, destruction or loss of such materials is excluded save where such damage, destruction or loss is caused by the Company's negligence. The Customer shall supply adequate quantities of such materials to cover spoilage.

(b) Whilst the Company shall endeavour to maintain its usual quality standards where the Customer's Materials are used, the Company shall not be liable for imperfect work caused by defects in or unsuitability of the Customer's Materials and the Customer shall not be entitled to reject such work.

(c) The Company shall have a lien over the Customer's Materials against payment of all costs or fees due to it by the Customer from time to time and shall be entitled (if any payment is not made on the due date) to dispose of the Customer's Materials for such sums (if any) as the Company may in its discretion think appropriate towards settlement of the amount due.

20. Design Work

(a) Subject as provided in this Condition, **ALL DESIGN WORK ORIGINATED BY THE COMPANY SHALL, AS TO ITS MATERIAL ELEMENTS AND AS TO THE COPYRIGHT OR DESIGN RIGHT IN RELATION TO IT, BELONG TO THE COMPANY**, and the Customer shall not have any right to reproduce or authorise any other person to reproduce any such design work in whole or in part or to do any act which would, in the absence of authorisation by the Company, infringe any copyright or design right which may subsist in relation to any such design work.

(b) In the course of the design work the Company may originate physical material (including without limitation artwork, photographic negatives, transparencies and printing plates, together with all other intermediate material including film work, stereotypes, proofs and progressives). This is referred to in these Conditions as "Origination Items". Subject as provided in this Condition all Origination Items belong to the Company absolutely.

(c) On due payment by the Customer for design work by the Company, the Company will:

(i) return to the Customer the Customer's Materials;

(ii) deliver and transfer to the Customer the Origination Items; and

(iii) at the Customer's request assign to the Customer the Company's copyright and design right in relation to the design work subject to payment by the Customer of all additional expenses relating to such assignment.

21. Liability

Subject always to Condition 22 below:-

(a) The Company shall not be liable to the Customer in respect of a claim relating to the Commissioned Work unless the Customer shall notify the Company in writing of such claim such notice to be received by the Company within the following time limits depending upon the nature of the claim:-

Nature of the Claim	Time Limit
Damage, loss or partial loss in transit	within 7 days of delivery
Non-delivery	within 7 days of despatch
Any other claim	within 28 days of delivery

Provided that the above time limits shall not apply where the Customer can show that compliance with the time limits was not possible and that notice of the Customer's claim had been given to the Company as soon as reasonably practicable.

(b) any liability incurred by the Company in respect of any of the Commissioned Work supplied pursuant to these Conditions howsoever arising shall be limited to re-printing the Commissioned Work, refunding the costs or fees paid or replacing or refunding the cost of the Customer's Materials at the Customer's option, save that nothing in this Condition shall operate to exclude any liability on the part of the Company for personal injury or death.

22. These Conditions do not and will not affect the statutory rights of the Customer as a consumer. No provision in these Conditions which would be void by virtue of Section 6 or Section 20 of the Unfair Contract Terms Act 1977 (as amended) shall apply to any consumer transaction governed by these Conditions.

23. For the purposes of the foregoing the expressions "consumer" and "consumer transaction" shall have the respective meanings given thereto in paragraph 2 of the Consumer Transactions (Restrictions on Statements) Order 1976 (as amended).

24. Force Majeure

The Company shall not be liable to the Customer or be deemed to be in breach of any order for the Commissioned Work by reason of any delay in performing or failure to perform any of the Company's obligations in relation to the order placed by the Customer if the delay or failure was due to any cause beyond the Company's reasonable commercial control.

25. Customer's Warranty and Indemnity

(a) The Company may refuse to print any of the Customer's Materials which in its opinion contains any defamatory or obscene matter or may infringe any Intellectual Property Rights of any third party.

(b) The Customer warrants to the Company that it owns the Customer's Materials and all Intellectual Property Rights in them and that the Customer's Materials do not infringe any Intellectual Property Rights of any third party and would not if used in relation to the sale of any Commissioned Work or the provision of any services infringe any Intellectual Property Rights of any third party.

(c) The Customer shall indemnify the Company and keep it indemnified in respect of all costs, claims, liabilities and expenses to which the Company may be subject as a result of any claim that any of the Customer's Materials or any design material originated by the Company on the instructions of the Customer contains any defamatory or obscene matter or infringes any Intellectual Property Rights of any third party. The indemnity shall extend (without limitation) to any amount paid on a lawyer's advice in settlement of any such claim and to the Company's legal costs.

26. Periodical Publications

Where the Customer places an order with the Company for the printing of periodical publications such a contract may only be terminated by one party giving the other party written notice. The minimum period of such notice shall be as follows:-

Nature of Publication	Length of Notice
Weekly	1 month
Fortnightly	2 months
Monthly	3 months
Quarterly	6 months

This Condition is without prejudice to the Company's right to terminate the contract with immediate effect if the Customer fails to make payment on the due date or is otherwise in breach of the terms of these Conditions.

27. Insolvency and Breach

if:-

(a) the Customer, being a company, makes any arrangement or composition with its creditors or has a receiver or administrator appointed or if the Customer is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or becomes insolvent or goes into liquidation within the meaning of Section 247 of the Insolvency Act 1986 or an order is made or resolution passed for winding up (except for voluntary amalgamation or reconstruction); or

(b) the Customer, being an individual, has a bankruptcy petition presented against him or is unable to pay his debts within the meaning of Section 123 of the Insolvency Act 1986 or becomes insolvent or makes any arrangement or composition with his creditors or takes any similar action in consequence of debt;

(c) the Customer is in breach of any of its obligations under these Conditions, then the Company without prejudice to any of its other rights may immediately suspend the performance of any order placed by the Customer and shall be entitled to charge the Customer, and the Customer shall immediately become liable to pay, for any Commissioned Work already carried out (whether completed or not) including the cost of any materials purchased on behalf of the Customer.

28. Severance

In the event of any provision of these Conditions being or becoming legally ineffective or unenforceable either in its entirety or in part this shall be without prejudice to the validity of and shall not invalidate the remaining provisions of these Conditions which shall remain in full force and effect.

29. Entire Agreement

These Conditions constitute the entire agreement of the parties as to the subject matter hereof and supersede all previous agreements and understandings (if any) between the parties and all representations made with respect thereto.

30. Governing Law

These Conditions shall be governed by English law and the parties hereby submit to the exclusive jurisdiction of the English Courts.