

# TERMS & CONDITIONS

**1. Conditions Applicable** These conditions shall apply to all contracts for the sale of goods by Continuous Design Limited to the customer to the exclusion of all other terms and conditions including any terms or conditions which the customer may purport to apply under any purchase order, confirmation of order or similar document. Any variation to these conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by a Director of Continuous Design Limited.

**2. Price and Payment** The price for the goods shall be the price set out by Continuous Design Limited overleaf. The price is an estimate only based on Continuous Design Limited current cost of production and Continuous Design Limited reserves the right to increase the price of the goods to reflect any increase in the cost to Continuous Design Limited which is due to factors occurring between the date of the Contract and the date of delivery which is beyond the reasonable control of Continuous Design Limited including without limitation foreign exchange fluctuations, taxes and duties and changes in the cost of materials, labour, transport and other manufacturing costs. The price is exclusive of VAT which shall be due and payable by the customer at the rate ruling on the date of the invoice raised by Continuous Design Limited. Payment of the price and VAT shall be due within 30 days of the date of the invoice. Time for payment shall be of the essence. Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 2% above Barclays Bank plc's base rate from time to time in force and shall accrue at such rate after as well as before any judgement.

**3. Preliminary Work** All work carried out, whether experimentally or otherwise, at the customer's request shall be charged.

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

**5. Proofs** Proofs of all work may be submitted for the customer's approval but no responsibility will be accepted for any errors in proofs which have been passed and accepted by the customer. Customer's alterations and additional proofs necessitated thereby will be charged extra. When style, type or layout is left to Continuous Design Limited judgement, changes therefore made by the customer will be charged extra.

**6. Delivery and Payment**

- a) Delivery of the goods shall be made to the customer's address on the delivery date notified by Continuous Design Limited to the customer. Unless otherwise specified, the price quoted overleaf includes delivery of the work to the customer's address as set out overleaf. A charge may be made to cover any extra costs involved for delivery to a different address.
- b) Should expedited delivery be agreed, Continuous Design Limited reserves the right to make an extra charge to cover any overtime or other additional costs involved.
- c) Continuous Design Limited shall not be liable for any loss or damage whatsoever due to failure by Continuous Design Limited to deliver the goods promptly or at all. Time of delivery is not of the essence of the Contract.
- d) The customer shall make all arrangements necessary to accept delivery of the goods whenever they are tendered for delivery.
- e) The customer shall be deemed to have accepted the goods on delivery of them. After acceptance, the customer shall not be entitled to reject goods which are not in accordance with the Contract.
- f) Should work be suspended at the request of or delayed through any default of the customer for a period of 30 days the printer shall then be entitled to payment for work already carried out, materials specially ordered and all other additional costs including storage.
- g) If the customer fails to make any payment on the due date, then without prejudice to any other rights of Continuous Design Limited, it may at its option cancel or suspend the Contract without prejudice to any other rights Continuous Design Limited may have against the customer.

**7. Variations in Quantity** Every endeavour will be made to deliver the correct quantity ordered but quotations are conditional upon the following margins being allowed for overs or shortages (measured in fold depths), the same to be charged or deducted.

	Margin
For quantities below 10,000 or where special papers or special features are required . . . . .	10%
Single part or one process work 10,000 to 50,000 . . . . .	5%
Over 50,000 . . . . .	4%
<u>Multi-part, Multi-unit, or multi-process work</u>	
10,000 to 50,000 . . . . .	10%
Over 50,000 . . . . .	8%
Flat print . . . . .	10%
Labels - Reel and Sprocket punched . . . . .	10%

**8. Claims** Advice of damage, delay or partial loss of goods in transit or of non delivery must be given in writing to Continuous Design Limited and the carrier within three days of delivery (or, in the case of non-delivery within 28 days of despatch of the goods) and any claim in respect thereof must be made in writing to Continuous Design Limited and the carrier within seven clear days of delivery (or, in the case of non-delivery, within 42 days of despatch). All other claims must be made in writing to Continuous Design Limited within 28 days of delivery. Continuous Design Limited shall not be liable in respect of any claims unless the aforementioned requirements have been complied with except in any particular case where the customer proves that (i) it was not possible to comply with the requirements and (ii) advice (where required) was given and the claims made as soon as reasonably possible.

**9. Liability** Continuous Design Limited shall not be liable for any loss to the customer arising from delay in transit not caused by Continuous Design Limited.

**10. Standing Material** (a) Metal, film, glass and other materials owned by Continuous Design Limited 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.

**11. Title and Risk**

- a) Risk in the goods shall pass to the customer on delivery of the goods.
- b) In spite of delivery having been made, the title in the goods shall not pass from Continuous Design Limited until:-
  - i) the customer shall have paid the price plus VAT in full; and
  - ii) no other sum shall be due from the customer to Continuous Design Limited
- c) Until property in the goods passes to the customer in accordance with clause (b) the customer shall hold the goods on a fiduciary basis as a bailee for Continuous Design Limited. The customer shall store the goods (at no cost to Continuous Design Limited) separately from all other goods in its possession and marked in such a way that they are clearly identified as the property of

- d) Continuous Design Limited.
- d) Notwithstanding that the goods (or any of them) remain the property of Continuous Design Limited, the customer may sell or use the goods in the ordinary course of the customer's business at full market value for the account of Continuous Design Limited. Any such sale or dealing shall be a sale or use of the property of Continuous Design Limited by the customer on the customer's own behalf and the customer shall deal as principal in making such sale or dealing. Until property in the goods passes from Continuous Design Limited, the entire proceeds of sale or otherwise of the goods shall be held in trust for Continuous Design Limited and shall not be mixed with any other money or paid into any overdrawn bank account and shall be at all times identified as the money of Continuous Design Limited.
- e) Continuous Design Limited shall be entitled to recover the price (plus VAT) notwithstanding that property in any of the goods has not passed from it.
- f) Until such time as property in the goods passes from Continuous Design Limited the customer shall upon request deliver up such of the goods as have not ceased to be in existence or resold to Continuous Design Limited. If the customer fails to do so Continuous Design Limited may enter upon any premises owned, occupied or controlled by the customer where the goods are situated and repossess the goods. On the making of such request, the rights of the customer under clause (d) shall cease.
- g) The customer shall not pledge or in any way charge by way of security for any indebtedness any of the goods which are the property of Continuous Design Limited. Without prejudice to the other rights of Continuous Design Limited, if the customer does so, all sums whatsoever owing by the customer to Continuous Design Limited shall forthwith become due and payable.
- h) The customer shall insure and keep insured the goods to the full price against all risks to the reasonable satisfaction of Continuous Design Limited until the date that property in the goods passes from Continuous Design Limited and shall, whenever requested by Continuous Design Limited, produce a copy of the policy of insurance. Without prejudice to the other rights of Continuous Design Limited, if the customer fails to do so, all sums whatsoever owing by the customer to Continuous Design Limited shall forthwith become due and payable.

**12. Limitation on Liability.**

- a) Except where the customer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977 Section 12) all implied terms, conditions and warranties relating to the quality and/or fitness for purpose of the goods or any of the goods and whether implied by statute or common law or otherwise are excluded.
- b) Nothing in this clause (12) shall restrict or exclude liability for death or personal injury caused by the negligence of Continuous Design Limited or affect the statutory rights of a customer when dealing as a consumer.
- c) Continuous Design Limited shall be under no liability whatsoever to the customer for any indirect loss and/or expense (including loss of profit) suffered by the customer arising out of a breach of Continuous Design Limited of this Contract.
- d) In the event of any breach of this contract by Continuous Design Limited the remedies of the customer shall be limited to damages. Under no circumstances shall the liability of Continuous Design Limited exceed the price of the goods.

**13. Customer's Property** (a) Except in the case of a customer who is not contracting in the course of a business nor holding himself out as doing so, customer's property and all property supplied to the printer by or on behalf of the customer shall while it is in the possession of Continuous Design Limited or in transit to or from the customer be deemed to be at the customer's risk unless otherwise agreed and the customer should insure accordingly.

(b) Continuous Design Limited shall be entitled to make a reasonable charge for the storage of any customer's property left with Continuous Design Limited before receipt of the order or after notification to the customer of completion of the work.

**14. Materials supplied by the Customer** (a) Continuous Design Limited may reject any paper, plates, disc or artwork 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 reasonable delay by Continuous Design Limited 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, Continuous Design Limited 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.

**15. 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, Continuous Design Limited without prejudice to other remedies shall

(i) 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 (ii) 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.

**16. Illegal Matter** (a) Continuous Design Limited shall not be required to print any matter which is 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) Continuous Design Limited shall be indemnified by the customer in respect of 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.

**17. 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 periodicals. Notice may be given at any time but wherever possible should be given after completion of work on any one issue. Nevertheless the printer may terminate any such contract forthwith should any sum due thereunder remain unpaid.

**18. Force Majeure** Continuous Design Limited 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 of 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 printer elect to terminate the contract and pay for work done and materials used, but subject thereto shall otherwise accept delivery when available.

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

**SUPPLIERS LIABILITY CONCERNING STORAGE**

- 1. Users must appreciate that paper is a material which is rapidly and considerably affected by storage and usage conditions. Unless precautions are taken it is liable to be affected by variations in temperature and humidity. Variations in humidity are the most serious and will, by changing the moisture content of the stationery, alter its size and strength characteristics.
- 2. Humidity - Stationery should be stored in conditions between 40% r.h. and 60% r.h. If stationery is stored outside these limits a progressive deterioration in performance must be expected. This may be minimised if sufficient time is allowed for acclimatisation to the conditions in which it is to be used but paper exposed to extremes of humidity may be permanently damaged.
- 3. Temperature - Stationery should be stored at a temperature between 16C and 25C (between 60F and 75F). Transient variations outside this range will not normally affect its performance. If stationery is transferred from a cold room to a warm room it will experience a warp. It is unlikely the stationery will return to its former state.
- 4. Stacking Continuous stationery should be kept in the original boxes until required for use. The boxes should be stored lid uppermost and not directly touching a floor. They should not be stored close to pipes, radiators, hot air ducts, open windows, or such like. Boxes should not be stacked more than five high, should be supported squarely at the bottom and should have no heavy weights placed upon them. Partly used boxes should not be placed within a stack but may be placed as the top box in a stack of five.

NO LIABILITY WILL BE ACCEPTED IF THE ABOVE CONDITIONS ARE NOT ADHERED TO 03/08/98