

## **STANDARD TERMS & CONDITIONS OF BUSINESS FOR P and R Design**

### **1. DEFINITIONS AND INTERPRETATION**

1.1. In these Conditions these words and expressions shall (except where the context otherwise requires) have the following meaning:

|                                |                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “Client”                       | The person who accepts P and R Design’s quotation for the sale/supply of the Products or whose order for the Products is accepted by P and R Design;                                                                                                                                                                                                                             |
| “Products”                     | The goods and/or services (including any part or parts of them) which P and R Design is to supply in accordance with these Conditions;                                                                                                                                                                                                                                           |
| “Conditions”                   | P and R Design’s standard terms & conditions of sale set out below and any special terms & conditions agreed in writing between the Client and P and R Design;                                                                                                                                                                                                                   |
| “Contract”                     | Any contract between P and R Design and the Client incorporating these Conditions;                                                                                                                                                                                                                                                                                               |
| “Intellectual Property Rights” | Any patent, trade mark, service mark, registered design, copyright, design right, right to extract or exploit information from a database, database rights, know-how, confidential information or process, any application for any of the above, and any other intellectual property right recognised in any part of the world whether or not presently existing or applied for. |

### **2. APPLICATION OF CONTRACT TERMS**

2.1. These Conditions will form the basis on which the parties contract to the exclusion of any other terms proffered by the Client. No variations to these Conditions will be effective unless accepted in writing by P and R Design signed by the Proprietor.

2.2. Each order for the Products from the Client shall be deemed to be an offer by the Client to purchase Products subject to these Conditions.

3. **ORDERS AND SPECIFICATIONS**

- 3.1. No order placed by the Client shall be deemed to be accepted by P and R Design until P and R Design issues a written acknowledgement of order or (if earlier) P and R Design delivers the Products to the Client.
- 3.2. The quantity, quality and description of the Products and any specification for them shall be set out in P and R Design's quotation (if accepted by the Client) or the Client's order (if accepted by P and R Design). The Client shall be responsible for ensuring that the terms of its order and any applicable specifications are complete and accurate and that timely instructions and responses to requests for action on its part are given.
- 3.3. P and R Design shall not be obliged to agree to any request for a variation of an order but if it does it may vary the price originally agreed.
- 3.4. Where an order is accepted and the Client stipulates a date by which they will supply information or material to P and R Design, so that P and R Design can commence work on the Products, time shall be of the essence of that supply and failure to supply the information or materials by the stipulated date will result in P and R Design making an additional charge.

OR

P and R Design shall use its reasonable endeavours to undertake and complete the order for the Products in accordance with any timetable or dates that the Client has stipulated for the completion of the Products. However, any such timetable or dates are estimates only and P and R Design will not be liable for any delay or failure to perform in accordance with that timetable or those dates.

- 3.5. Unless agreed in writing, the Client may not cancel or vary an order once it has been accepted by P and R Design. *[Where an agreed cancellation occurs the Client shall indemnify P and R Design in full against all loss (including loss of profit), costs (including but not limited to the cost of all labour and materials used and deposits paid to third parties), damages, charges and expenses (including but not limited to any cancellation charges levied by third parties or subcontractors) incurred by P and R Design as a result of the cancellation.]*

4. **MATERIAL SPECIFIED/SUPPLIED BY THE CLIENT**

- 4.1. P and R Design reserves the right to reject any paper, plates or other materials supplied or specified by the Client if it believes such materials to be unsuitable. Where P and R Design rejects such materials, P and R Design may charge the Client the additional costs incurred by P and R Design in obtaining substitute materials of suitable quality.
- 4.2. Whilst P and R Design will take every care to ensure that the best possible results are achieved with the materials supplied or specified by the Client it

cannot be responsible for imperfections caused as a result of defects in or the unsuitability of the materials supplied or specified.

- 4.3. The Client must ensure that any materials it supplies to P and R Design are adequate in number to cover normal spoilage.

## 5. **PROOFS & COLOUR PRINTING**

- 5.1. P and R Design will submit to the Client proofs of all artwork for its approval, in the medium agreed by the parties. It is the sole responsibility of the Client to satisfy itself of the accuracy of the artwork in all proofs that P and R Design may be asked to produce. Once the Client has signed off the final PDF proof of the artwork via email, P and R Design will not be liable for any defects or errors subsequently found in the artwork nor will P and R Design be liable for any loss (including loss of profit), costs, charges or expenses resulting directly or indirectly from such defects or errors subsequently found.

- 5.2. P and R Design will use its reasonable endeavours to obtain the best colour reproduction. However due to differences in equipment, paper, inks and other conditions between:

- 5.2.1. colour proofing and production runs; or

- 5.2.2. the Client's original colour photography or transparency and the printed article

a reasonable variation in colour between colour proofs and the completed job is deemed acceptable unless otherwise previously agreed in writing.

## 6. **DELIVERY AND RISK**

- 6.1. In the absence of any written agreement as to when Delivery shall be made and risk of damage to or loss of the Products shall pass, Delivery and the passing of risk shall occur as follows:

- 6.1.1. Where the Products are tangible, when the Client collects the Products at P and R Design's premises, such collection to occur within [2] days of P and R Design notifying the Client that the Products are ready for collection;

- 6.1.2. Where delivery of the Products is to be made electronically, when P and R Design sends an electronic message enclosing the Products; or

- 6.1.3. Where P and R Design arranges for the delivery of the Products to an address designated by the Client, when P and R Design hands the Products to the carrier. P and R Design shall be the Client's agent and the Client shall reimburse the delivery charges.

- 6.2. Any dates specified by P and R Design for delivery of the Products estimates given in good faith but are approximate only and P and R Design shall not be

liable for any delay in delivery of the Products howsoever caused. If no dates are so specified, delivery will be within a reasonable time. Time for delivery shall not be of the essence of the Contract unless previously agreed by P and R Design in writing.

- 6.3. The Products may be delivered by P and R Design in advance of the quoted delivery date on giving reasonable notice to the Client.
- 6.4. Late delivery of the Products does not entitle the Client to reject the Products, terminate the Contract or withhold payment of any part of the Contract price.
- 6.5. Where the Products are to be delivered in instalments, each delivery shall constitute a separate contract and failure by P and R Design to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Client in respect of any one or more instalments shall not entitle the Client to treat the Contract as a whole as repudiated.
- 6.6. If the Client fails to take delivery of the Products or fails to give P and R Design adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Client's reasonable control or by reason of P and R Design's fault) then:
  - 6.6.1. risk in the Products will pass to the Client (including for loss or damage caused by P and R Design's negligence);
  - 6.6.2. the Products will be deemed to have been delivered;
  - 6.6.3. P and R Design may store tangible Products until actual delivery and charge the Client for the reasonable costs (including insurance) of storage.
- 6.7. Whilst P and R Design will use reasonable endeavours to deliver the correct quantity of Products, P and R Design reserves the right to deliver up to [10] per cent more or less than the quantity ordered without any adjustment in the price, and the quantity so delivered shall be deemed to be the quantity ordered.

## 7. **PRICE AND PAYMENT**

- 7.1. The Client shall pay the price for the Products and any additional charges together with any applicable Value Added Tax in full without set off or deduction within 30 days of the date of the invoice. Time for payment shall be of the essence. No payment shall be deemed to have been received until P and R Design has received cleared funds.
- 7.2. Unless otherwise agreed in writing, P and R Design may invoice the Client for the price of the Products on or at any time after delivery of the Products. However, where the Products are to be collected by the Client or the Client wrongfully fails to take delivery of the Products, P and R Design shall be entitled to invoice the Client for the price at any time after P and R Design

has notified the Client that the Products are ready for collection or (as the case may be) P and R Design has tendered delivery of the Products.

7.3. If the Client fails to make any payment on the due date then, without limiting any other right or remedy available to P and R Design, P and R Design may do any or all of the following:

7.3.1. cancel the Contract or suspend any further deliveries to the Client;

7.3.2. reserve the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998;

7.3.3. exercise a general lien on all Products and property of the Client in its possession (whether worked on or not). P and R Design shall also be permitted to dispose of such Products and property, in any way it chooses, after the expiration of [30] days notice to so dispose. The proceeds from such a disposal shall be applied to the unpaid debts.

7.4. All payments payable to P and R Design under the Contract shall become due immediately upon termination of the Contract despite any other provision.

7.5. [Should any dispute arise in connection with the order the Client must immediately inform P and R Design of the nature of the dispute and in any event within 7 days from the date of invoice and shall pay any undisputed portion of the invoice in accordance with clause 9.1.]

## 8. **RESERVATION OF TITLE**

8.1. Notwithstanding delivery and the passing of risk in the Products, or any other provision of these Conditions, ownership of the Products and any Intellectual Property Rights in them remains with P and R Design and shall not pass to the Client until P and R Design has received the full price of the Products (in cash or cleared funds) and there is nothing further owing by the Client to P and R Design in respect of other Products supplied by P and R Design. Even though title has not passed P and R Design is entitled to an action on the price.

8.2. Until such time as the ownership in the Products passes to the Client, the Client shall:

8.2.1. store tangible Products (at no cost to P and R Design) separately and identifiably apart from any other goods.

8.2.2. deliver the Products to P and R Design if P and R Design so requires and, if the Client fails to do so immediately, P and R Design, its agents and employees shall be permitted to enter on any premises of the Client or any third party where the Products are stored and repossess the Products.

8.2.3. not assign to any other person any rights arising from a sale of the Products without P and R Design's written consent.

8.3. The Client's right to possession of the Products shall terminate immediately if the Client becomes insolvent.

9. **PROPERTY OF THE CLIENT**

9.1. P and R Design and its agents will take every care when dealing with all property belonging to the Client and all property supplied to P and R Design by or on behalf of the Client. However, it is the Client's responsibility to maintain insurance against theft, damage or loss as P and R Design does not insure the Client's property.

9.2. Unless agreed otherwise, all property belonging to the Client and all property supplied to P and R Design by or on behalf of the Client shall be held by P and R Design or its agents at the Client's risk and the Client should insure accordingly.

9.3. P and R Design may make a reasonable storage charge if property belonging to the Client and/or property supplied to P and R Design by or on behalf of the Client is not collected from P and R Design once the contract has been completed.

10. **ILLEGAL MATERIAL**

10.1. P and R Design may refuse to print any matter that it believes to be or is likely to be obscene, of an illegal or libellous nature or an infringement of the proprietary or other rights of any third party. P and R Design reserves the right not to print any matter which it considers to be prejudicial or detrimental to the good of its business. In neither event shall P and R Design be in breach of its obligations and shall be entitled to be paid for the work it has done and an amount to compensate it for the remainder of the contract as well as any costs it has incurred.

10.2. The Client shall indemnify P and R Design against all claims, legal or other costs and expenses it has to pay due to any obscene, libellous matter or infringement of copyright, patent, design or any other proprietary or personal rights in any Products produced for the Client.

11. **INTELLECTUAL PROPERTY RIGHTS**

11.1. All new copyright works created by P and R Design in the design or development of the Products will vest in P and R Design who will assign the copyright when it has been paid in full all sums due or payable under the Contract. In the meantime the Client has a licence to use but not to reproduce or copy the Products or artwork.

11.2. *[Unless otherwise agreed, all work undertaken by P and R Design will bear the P and R Design logo or imprint. The position of the logo or imprint to be at P and R Design's discretion.]*

12. **LIABILITY**

- 12.1. The Client must inspect all Products upon delivery and notify P and R Design of any claim that the Products do not meet the agreed quality, condition or specification (whether or not delivery is refused by the Client) within 5 days from the date of delivery or (where failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Client does not notify P and R Design accordingly, the Client shall not be entitled to reject the Products and P and R Design shall have no liability for such defect or failure, and the Client shall be bound to pay the price as if the Products had been delivered in accordance with the Contract.
- 12.2. Where the Client makes a valid claim in respect of any of the Products which is based on a defect in the quality or condition of the Products or their failure to meet specification P and R Design shall be entitled to rectify the defect by replacing or reworking the Products (or the part in question) free of charge or, at P and R Design's sole discretion, refund to the Client the price of the Products (or a proportionate part of the price), in which case P and R Design shall have no further liability to the Client.
- 12.3. P and R Design shall not be liable to the Client for loss of profit, loss of business or anticipated savings nor for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of P and R Design, its employees or agents or otherwise) which arise out of or in connection with the supply of the Products (including any delay in supplying or any failure to supply the Products in accordance with the Contract at all) or their use or resale by the Client.
- 12.4. In no circumstances will P and R Design's liability under or in connection with the Contract exceed 125 per cent of the invoice value.

13. **FORCE MAJEURE**

- 13.1. P and R Design reserves the right and shall not be liable to the Client if it has to defer the date of delivery or cancel the Contract or reduce the volume of the Products ordered by the Client (without liability to the Client) or if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of P and R Design including, without limitation:
- 13.1.1. Acts of God, explosion, flood, tempest, fire or accident;
- 13.1.2. War or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 13.1.3. Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

13.1.4. Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of P and R Design or of a third party);

13.1.5. Power failure or breakdown in machinery.

13.2. If the event in question continues for a continuous period in excess of [60/90] days, P and R Design or the Client shall be entitled to give notice in writing to the other to terminate the Contract.

14. **GENERAL**

14.1. Failure or delay by P and R Design 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 and any waiver by P and R Design of any breach of, or any default under, any provision of the Contract by the Client will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.

14.2. The parties to this Contract do not intend that any term of this Contract will be enforceable by any person that is not a party to it.

14.3. All communications between the parties about the Contract must be in writing and delivered by hand or sent by pre-paid first class post, facsimile or electronic mail to the addresses/numbers notified by each party to the other. Communications delivered by hand will be deemed received if delivered on a Working Day (excluding Saturdays, Sundays, bank and public holidays); or if sent by pre-paid first class post, 2 Working Days after posting (exclusive of the day of posting); or if sent by facsimile, at the time of its actual transmission provided that the sender does not receive any indication that the facsimile has not been successfully transmitted to the intended recipient.

14.4. All Contracts between the Client and P and R Design shall be subject to and construed in accordance with the laws of England, and the Client agrees to submit to the exclusive jurisdiction of the English courts.