

TERMS AND CONDITIONS OF ACCEPTANCE OF ORDERS FOR SERVICES AND/OR GOODS

1. Definitions

- 1.1 "The Company" - shall mean **BARRETT HOWE LTD.**
- 1.2 "The Client" - shall mean the person, firm or company who buys or agrees to buy goods and/or services from the Company.
- 1.3 "Conditions" - shall mean the terms and conditions of sale set out in this document and/or any other terms and conditions agreed in writing by the Company.
- 1.4 "Working Day" - shall mean Monday to Friday excluding statutory Bank Holidays.

2. Conditions Applicable

- 2.1 These conditions shall apply to all contracts for sale of goods and/or services by the Company to the Client to the exclusion of all other terms and conditions. These shall include any terms and conditions which the Client may purport to apply under any of their documentation, correspondence or elsewhere or implied by trade custom, practice or course of dealing.
- 2.2 All orders for goods and/or services shall be deemed to be an offer by the Client to purchase goods and/or services pursuant to these conditions.
- 2.3 Accepting the delivery of goods or commencement of the providing of services shall be deemed conclusive evidence of the Client's acceptance of these conditions.
- 2.4 Any variation to these conditions shall not apply unless agreed in writing by the Company.

3. Estimates

- 3.1 All estimates are valid for one month but do not constitute offers made by the Company.
- 3.2 The Company reserves the right to withdraw or revise any estimate at any time prior to the Client contracting for goods and/or services.

4. Visuals/Proofs

- 4.1 Visuals and/or Proofs of all work whether it be design, print and/or advertising production will be submitted for a Client's approval.
- 4.2 Authors corrections, including alterations to originally briefed and agreed style, and the costs of additional visuals necessitated by such changes will be charged extra.
- 4.3 Final proofs will be submitted for a Client's approval and thereafter no responsibility will be accepted by the Company for any errors not corrected therein.
- 4.4 Where the Company has produced work only up to artwork stage and the client then contracts direct with their own suppliers for further process/printing, the Client shall be liable for all costs charged by the supplier after artwork has been approved by the Client, including charges for errors and amendments.

5. Price and Payment

- 5.1 The price shall be the Company's estimated price or the price set out in any revised estimate or in any written contract to be entered between the parties.
- 5.2 The price is exclusive of VAT which shall be due at the rate ruling on the date of the Company's invoice.
- 5.3 The Client will indemnify and/or pay any claim made by Customs and Excise for VAT against printed or unprinted work, for which the Company had not originally charged or estimated.
- 5.4 All invoices up to and including the last day of the calendar month shall be paid for no later than the last business day of the following month unless otherwise specified by the Company in writing.
- 5.5 The Company reserves the right to charge interest at Royal Bank of Scotland base lending rate plus 3% on any overdue account.

6. Delivery and Production

- 6.1 Delivery of work shall be accepted when tendered.
- 6.2 Unless otherwise specified the price is exclusive of delivery and other costs and these will be charged as extra.
- 6.3 Should work be suspended at the request of, or delayed through, any default of the Client for a period of 30 days the Company shall then be entitled to payment for work already carried

9.3 The Company may reject any materials supplied or specified by the Client which appear to the Company to be unsuitable. Additional cost incurred if materials are found to be unsuitable during production will be charged as extra.

9.4 Quantities of materials supplied shall be adequate to cover normal spoilage. Materials must be supplied on time as agreed, if not, the Company reserve the right to charge extra for machine standing time.

9.5 The Company shall not be required to print any matter which in their opinion is of an illegal or libellous nature, or an infringement of the proprietary rights or other rights of any third party.

10. Intellectual Property Rights

10.1 It shall be the Client's responsibility to carry out all necessary searches, enquiries to check for infringement of any intellectual property rights to be produced as original artwork by the Company, unless otherwise agreed in writing.

10.2 The Company shall be indemnified by the Client in respect of any claims, costs and expenses arising from any libellous matter, or any infringement of copyright, patent, design or of any other proprietary or personal rights contained in any material produced for the Client. The indemnity shall extend to any amounts paid on a lawyers advice in settlement of any claim, including legal costs.

10.3 All original artwork carried out by the Company on behalf of a Client (save where the intellectual property rights are already owned by third parties and/or the Client) shall remain the property of the Company.

11. Periodical Publications

11.1 When buying advertising space on behalf of a Client with any publication, estimates are given upon the condition that not less than six months' notice is given to terminate the contract for printing of quarterly publications; not less than three months' notice in the case of monthly publications; and not less than one months' notice in the case of weekly publications.

12. Warranties

12.1 The Company warrants the goods against any defects for three months from the date of delivery to the Client ("the Warranty Period").

12.2 The Company's obligations under this warranty are limited to, at its option, replacing or refunding the cost of the goods or parts thereof which are delivered with or develop defects under normal and proper use within the Warranty Period and does not extend to any consumable item.

12.3 In the event of the Client becoming aware of a defect in the goods during the Warranty Period the Client shall promptly deliver to the Company, within the Warranty Period written particulars of such defect. The Client shall use his best endeavours to provide the Company with all necessary access and other reasonable facilities and all information and particulars required to enable the Company to ascertain or verify the nature or cause of the defect claimed and to carry out its warranty obligations.

12.4 The Company shall be under no obligation whatsoever to replace or make good any loss or damage or defect which results from incorrect use or from normal wear and tear, accident, abnormal conditions of storage or any act of neglect or default of the Client or any third party.

12.5 The above warranties are given in lieu of and replace, exclude and extinguishes all and every condition, warranty or any term or representation whether express or implied by statute, common law, trade usage, custom or otherwise in respect of the quality, fitness for purpose, merchantable, description of goods or otherwise (save where such exclusion is expressly prohibited by statute).

13. Limitation of Damages

13.1 The Company shall have no liability for any indirect or consequential losses or expenses suffered by the Client, however caused, including but not limited to the loss of anticipated profits, goodwill, reputation, business receipts or contracts, or losses or expenses resulting from third party claims.

out, materials specially ordered, storage and any other additional costs.

6.4 Any complaint of short delivery or of damage to goods in transit must be notified to the Company within five working days of receipt of the goods.

6.5 Any complaint of failure to deliver goods invoiced must be so notified within ten working days of the date of invoice.

6.6 Every endeavour will be made to deliver the correct quantity ordered, but estimates are conditional upon margins of 5% for work in one colour and 10% for other work being allowed for overs or shortages, the same to be charged or deducted.

7. Urgent Contracts

7.1 Where the Client specifically requests that production of work and/or delivery of goods be expedited in a time span not normally accepted by the Company, every effort will be made to comply.

Though every effort will be made to secure free from defects, reasonable allowances must be made by the Client.

7.2 Should such delivery necessitate overtime being worked or other additional costs being incurred, an additional charge will be made to cover the increased cost.

7.3 The Company will not be liable to the Client if as a result of the expedited production the quality of the goods is of a lower standard than that produced by the Company in the ordinary course of business.

8. Standing Materials

8.1 Data may be erased and/or plates scrapped immediately after the order is executed unless written agreements are made to the contrary.

8.2 The Company shall be entitled to destroy all other materials in their custody two years after its creation or delivery to the Company (whichever is later) unless it continues to be used in the Client's advertising, or after one month's notice given to the Client at such earlier time as the Company think reasonable.

9. Materials Supplied by Client

9.1 Client's property when supplied will be held at the Client's risk.

9.2 Every care will be taken to secure the best results but the Company accepts no responsibility for imperfect work caused by defects in or unsuitability of materials so supplied unless caused by the negligence of the Company.

13.2 Subject to Clause 12 the Company's aggregate liability to the Client whether for negligence, breach of contract, misrepresentation or otherwise shall in no circumstances exceed the costs of the goods and/or services which gives rise to such liability in respect of any occurrence or series of occurrences.

14. Force Majeure

14.1 Neither party shall be liable for any default due to any Act of God, war, strike, lock-out, industrial action, fire, flood, draught, tempest, or any event beyond the reasonable control of either party.

15. Title and Risk

15.1 The risk passes to the Client at the point when delivery begins.

15.2 The Company and the Client expressly agree that until the Company has been paid in full for the goods they shall remain the legal and equitable owner of the goods.

16. General Lien

16.1 Without prejudice to other remedies, the Company shall in respect of all unpaid debts from the Client have a general lien on all goods and property in their possession (whether worked on or not) and shall be entitled on the expiration of 21 days notice to dispose of such goods or property as they think fit and to apply any proceeds towards such debts.

17. General

17.1 Except where inconsistent with these conditions or with the express terms of any contract between the Company and the Client, the British Printing Industries Federation Customs (obtainable from the BPIF) for the time being in force shall apply to all contracts.

17.2 The Client acknowledges that all representations whether oral or in writing made by the Company or its representatives relating to the name, quality, weight or measurement of the goods shall be construed in accordance with the terms of such trade customs.

17.3 Clause headings are inserted for convenience only and shall not affect the interpretation of any clause.

17.4 If any of these conditions is held to be invalid for any purpose shall be for that purpose deemed to have been omitted but shall not prejudice the effectiveness of the rest of the Conditions.

18. Governing Law

18.1 The interpretation and the performance of these conditions will be governed by the Law of England.