

MITCHELL PRINTING & MAILING, INC.,

TRADE CUSTOMS – TERMS AND CONDITIONS OF SALE

1. QUOTATION

A quotation not accepted within thirty days may be changed.

2. ORDERS

Acceptance of orders is subject to credit approval and contingencies such as fire, water, strikes, theft, vandalism, acts of God, and other causes beyond the provider's control. Cancelled orders require compensation for incurred costs and related obligations.

3. EXPERIMENTAL WORK

Experimental or preliminary work performed at a customer's request will be charged to the customer at the provider's current rates. This work cannot be used without the provider's written consent.

4. CREATIVE WORK

Sketches, copy, dummies, and all other creative work developed or furnished by the provider are the provider's exclusive property. The provider must give written approval for all use of this work and for any derivation of ideas from it.

5. ACCURACY OF SPECIFICATIONS

Quotations are based on the accuracy of the specifications provided. The provider can re-quote a job at the time of submission if copy, film, tapes, disks, or other input materials don't conform to the information on which the original quotation was based.

6. PREPARATORY MATERIALS

Artwork, type, plates, negatives, positives, tapes, disks, and all other items supplied by the provider remain the provider's exclusive property.

7. ELECTRONIC MANUSCRIPT OR IMAGE

It is the customer's responsibility to maintain a copy of the original file. The provider is not responsible for accidental damage to media supplied by the customer or for the accuracy of furnished input or final output. Until digital input can be evaluated by the provider, no claims or promises are made about the provider's ability to work with jobs submitted in digital format, and no liability is assumed for problems that may arise. Any additional translating, editing, or programming needed to utilize customer-supplied files will be charged at prevailing rates.

8. ALTERATIONS AND CORRECTIONS

Customer alterations include all work performed in addition to the original specifications. All such work will be charged at the provider's current rates.

9. PREPRESS PROOFS

The provider will submit prepress proofs along with original copy for the customer's review and approval. Corrections will be returned to the provider on a master set marked "O.K.", "O.K. with corrections", or "Revised proof required" and signed by the customer. Until the master set is received, no additional work will be performed. The provider will not be responsible for undetected production errors if:

- Proofs are not required by the customer;
- The work is printed per the customer's O.K.;
- Requests for changes are communicated orally.

10. PRESS PROOFS

Press proofs will not be furnished unless they have been required in writing in the provider's quotation. A press sheet can be submitted for the customer's approval as long as the customer is present at the press during make-ready. Any press time lost or alterations/corrections made because of the customer's delay or change of mind will be charged at the provider's current rates.

11. COLOR PROOFING

Because of the differences in equipment, paper, inks, and other conditions between color proofing and production pressroom operations, a reasonable variation in color between color proofs and the completed job is to be expected. When variations of this kind occur, it will be considered acceptable performance.

12. OVER-RUNS OR UNDER-RUNS

Over-runs or under-runs will not exceed 10% of the quantity ordered. The provider will bill for actual quantity delivered within this tolerance. If the customer requires a guaranteed quantity, the percentage of tolerance must be stated at the time of quotation.

13. CUSTOMER'S PROPERTY

The provider will only maintain fire and extended coverage on property belonging to the customer while the property is in the provider's possession. The provider's liability for this property will not exceed the amount recoverable from the insurance. Additional insurance coverage may be obtained if it is requested in writing, and if the premium is paid to the provider.

14. DELIVERY

Unless otherwise specified, the price quoted is for a single shipment, without storage, F.O.B. provider's platform. Proposals are based on continuous and uninterrupted delivery of the complete order. If specifications state otherwise, the provider will charge accordingly at current rates. Charges for delivery of materials and supplies from the customer to the provider, or from the customer's supplier to the provider, are not included in quotations unless specified. Title for finished work passes to the customer upon delivery to the carrier at shipping point; or upon mailing of invoices for the finished work or its segments, whichever occurs first. If the project is a direct mail drop, customer agrees that delivery of the project to the Post Office by the provider shall be satisfactory delivery. Provider will not be held responsible for the performance of the post office or for response rates of the mailing piece. Postal receipt will be evidence of satisfactory delivery. Postage advances will be subject to a 10% handling charge.

15. PRODUCTION SCHEDULES

Production schedules will be established and followed by both the customer and the provider. In the event that production schedules are not adhered to by the customer, delivery date will be subject to renegotiations. There will be no liability or penalty for delays due to state of war, riot, civil disorder, fire, strikes, accidents, action of government or civil authority, acts of God, or other causes beyond the control of the provider. In such cases, schedules will be extended by an amount of time equal to the delay incurred. Should the customer require delivery of product earlier than the agreed upon time frame, rush charges will apply.

16. CUSTOMER-FURNISHED MATERIALS

Materials furnished by customers or their suppliers are verified by delivery tickets. The provider bears no responsibility for discrepancies between delivery tickets and actual counts. Customer-supplied paper must be delivered according to specifications furnished by the provider. These specifications will include correct weight, thickness, pick resistance, and other technical requirements. Artwork, film color separations, special dies, tapes, disks, or other materials furnished by the customer must be usable by the provider without alteration or repair. Items not meeting this requirement will be repaired by the customer, or by the provider at the provider's current rates.

17. OUTSIDE PURCHASES

Unless otherwise agreed in writing, all outside purchases as requested or authorized by the customer are chargeable.

18. TERMS/CLAIMS/LIENS

Payment is net upon delivery of project, unless other terms have been agreed upon between customer and provider. Claims for defects, damages, or shortages must be made by the customer in writing no later than 10 calendar days after delivery, except in the case of a direct mail drop, in which case, customer agrees that delivery of the project to the Post Office by the provider shall be satisfactory delivery. If no such claim is made, the provider and the customer will understand that the job has been accepted. By accepting the job, the customer acknowledges that the provider's performance has fully satisfied all terms, conditions, and specifications. Customer agrees to waive their right to chargeback the payment if payment has been made by any credit card. The provider's liability will be limited to the quoted selling price of defective goods, without additional liability for special or consequential damages. As security for payment of any sum due under the terms of an agreement, the provider has the right to hold and place a lien on all customer property in the provider's possession. This right applies even if credit has been extended, notes have been accepted, trade acceptances have been made, or payment has been guaranteed. If payment is not made, the customer is liable for all collection costs incurred.

19. LIABILITY

a. Disclaimer of Express Warranties

Provider warrants that the work is as described in the purchase order. The customer understands that all sketches, copy, dummies, and preparatory work shown to the customer are intended only to illustrate the general type and quality of the work. They are not intended to represent the actual work performed.

b. Disclaimer of Implied Warranties

The provider warrants only that the work will conform to the description contained in the purchase order. The provider's maximum liability, whether by negligence, contract, or otherwise, will not exceed the return of the amount invoiced for the work in dispute. Under no circumstances will the provider be liable for specific, individual, or consequential damages.

20. INDEMNIFICATION

The customer agrees to protect the provider from economic loss and any other harmful consequences that could arise in connection with the work. This means that the customer will hold the provider harmless and save, indemnify, and otherwise defend him/her against claims, demands, actions, and proceedings on any and all grounds. This will apply regardless of responsibility for negligence.

a. Copyrights

The customer also warrants that the subject matter to be printed is not copyrighted by a third party. The customer also recognizes that because subject matter does not have to bear a copyright notice in order to be protected by copyright law, absence of such notice does not necessarily assure a right to reproduce.

The customer further warrants that no copyright notice has been removed from any material used in preparing the subject matter for reproduction. To support these warranties, the customer agrees to indemnify and hold the provider harmless for all liability, damages, and attorney fees that may be incurred in any legal action connected with copyright infringement involving the work produced or provided.

b. Personal or Economic Rights

The customer also warrants that the work does not contain anything that is libelous or scandalous, or anything that threatens anyone's right to privacy or other personal or economic rights. The customer will, at the customer's sole expense, promptly and thoroughly defend the provider in all legal actions on these grounds as long as the provider:

Promptly notifies the customer of the legal action;

Gives the customer reasonable time to undertake and conduct a defense. The provider reserves the right to use his or her sole discretion in refusing to print anything he or she deems illegal, scandalous, improper or infringing upon copyright law.

21. STORAGE

The provider will retain intermediate materials until the related end-product has been accepted by the customer. If requested by the customer, intermediate materials will be stored for an additional period at additional charge to be negotiated between provider and customer. The provider is not liable for any loss or damage to stored material beyond what is recoverable by the provider's fire and extended insurance coverage.

22. TAXES

All amounts due for taxes and assessments will be added to the customer's invoice and are the responsibility of the customer. No tax exemption will be granted unless the customer's "Exemption Certificate" (or other official proof of exemption) accompanies the purchase order. If, after the customer has paid the invoice, it is determined that more tax is due, then the customer must promptly remit the required taxes to the taxing authority, or immediately reimburse the provider for any additional taxes paid.

23. TELECOMMUNICATIONS

Unless otherwise agreed, the customer will pay for all transmission charges. The provider is not responsible for any errors, omissions, or extra costs resulting from faults in the transmission.

24. PAPER STOCK

Due to constant changes in paper production, stock that was formerly available may have either changed in weight or color or have been discontinued. Provider will substitute stock that they feel to be comparable at their discretion.

25. DIRECT MAIL

Customer understands and agrees that provider will print, address and deliver any direct mail project to the Post Office designated by the Postal Permit holder. Customer agrees to provide Mitchell Printing & Mailing, Inc., with a legal postal permit, or agrees to use the postal permit of provider. Customer understands that postage must be paid in advance by check made payable to "Postmaster", unless agreed upon separately between Provider and Customer. Customer will not hold provider responsible for the performance of the post office, or for response rates of the mailing piece. Postal receipt will be evidence of satisfactory delivery to the Postal Service. Postage advances subject to 10% handling charge. If postage is paid via credit card, cardholder waives their right to chargeback that amount.

(Signature Required)

Dated: _____

The above are revisions adopted by the Printing Industries of America, the National Association of Printers and Lithographers, and the Graphics Arts Technical Foundation on behalf of their memberships.