

Apex Labels (UK) Ltd  
**CONDITIONS OF CONTRACT**

**General**

**(a) Definitions**

in these conditions

(i) Printer means Apex Labels (UK) Limited

(ii) Customer means the person, firm or company who places an order with the printer for the manufacture and/or supply of any goods.

**(b) Exclusion of terms inconsistent herewith** only these conditions shall apply to sales by the printer. If the terms and conditions stated in the customers order are inconsistent herewith or if they contain provision(s) purporting to exclude these conditions the printer's acceptance of the customers order shall constitute a counter offer and the customer shall be deemed to have accepted these conditions unless it notifies the secretary of the printer at its registered office to the contrary in writing within seven days of the date of the printers acknowledgement of the customers order.

**(c) Variation and waiver** no variation cancellation or waiver of these conditions shall be valid unless made in writing and signed by a duly authorised representative of the printer. At the request of the customer the printer will verify whether any individual has the requisite authority.

**2. Extent of contract** The customer must notify the printer within seven days of the date of the printers acknowledgement if such acknowledgement does not accurately confirm the customer's order failing which the customer shall be bound by the terms of the acknowledgement.

**3. Acceptance** The Printer's offers, estimates, quotations and price lists are without engagement and all orders require the Printer's acceptance in writing in order to create a contract. Any such acceptance shall nevertheless be subject to the customers credit being approved and to cancellation without liability of the instance of the Printer should it subsequently find the customers's credit inadequate.

**4. Despatch period** The period quoted for despatch commences from the date of the order acknowledgement but it is an estimate only. Whilst the printer shall use reasonable commercial endeavours to despatch the goods by the date specified on the order acknowledgement it shall not be liable for delay in delivery from any cause whatsoever and howsoever arising. Time shall not be of the essence of the contract.

**5. Despatch in lots** The Printer shall have the right to despatch any portion(s) of the goods covered by the contract and to invoice the Customer for such portion(s) so despatched on the same terms and conditions set forth herein. Each delivery, part delivery and part performance shall be deemed to represent a separate contract and failure of any delivery, part delivery or part performance shall not vitiate any contract in respect of any other delivery, part delivery or part performance.

**6. Non acceptance by customer** If by reason of the Customer's default goods have not been taken up or delivered by the applicable delivery date, the Printer may (without prejudice to its right to claim damages) suspend delivery of the goods or treat the contract as repudiated with regard to those goods or store the goods at the expense and risk of the Customer until they are taken up or do any combination of the foregoing.

**7. Variations in quantity** Every endeavour will be made to deliver the correct quantity ordered, but estimates are conditional upon margins of 5 per cent for work in one colour only and 10 per cent for other work being allowed for overs or shortage (4 per cent and 8 per cent respectively for quantities exceeding 50,000) the same to be charged or deducted.

**8. Delivery and payment** (a) delivery of work shall be accepted when tendered and thereupon or, if earlier, on notification that the work has been completed the ownership shall pass and payment shall become due.  
(b) Unless otherwise specified the price quoted is for a U.K. (excluding Northern Ireland) delivery to the Customers address as set out in the estimate. Delivery to addresses other than the above are FOB only. A charge may be made to cover extra costs involved for delivery to any other address.  
(c) should expedited delivery be agreed an extra may be charged to cover overtime or any other additional costs involved.  
(d) 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 other additional costs including storage.  
(e) in default of payment on the due date, the Printer, without prejudice to its right hereunder shall have the right to charge the Customer interest on the overdue payment at the rate of 2 per cent per month or pro rata per diem from the date payment was due until the date payment is made to the Printer. All payment shall be made in sterling to the printer at its registered office.  
(f) **Call off orders** unless otherwise specified, the price quoted is for delivery of the goods when completed. Where the Customer requests part of a completed order to be held in stock by the Printer and only to be invoiced when delivered, a separate charge may be made to cover storage and/or financing costs. Such goods shall be held at the Customers risk for a period not exceeding six months, after which time delivery will be made and the goods invoiced.

**9. Price variation** Estimates are based on the Printer's current costs of production and, unless otherwise agreed are subject to amendment on or at any time after acceptance to meet any rise or fall in such costs.

**10. Tax** Except in the case of a Customer who is not contracting in the course of a business nor holding himself out as doing so, the Printer reserves the right to charge the amount of any value added tax payable whether or not included on the estimate or invoice.

**11. Preliminary work** All work carried out, whether experimentally or otherwise, at Customers request shall be charged.

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

**13. Proofs.** Proofs of all work may be submitted for Customer's approval and the Printer shall incur no liability for any errors not corrected by the Customer in proofs so submitted. Customer's alterations and additional proofs necessitated thereby shall be charged extra. When style, type or layout is left to the Printer's judgment, changes therefrom made by the Customer shall be charged extra.

**14. Claims** Advice of damage, delay or partial loss of goods in transit or of non-delivery must be given in writing to the Printer and the carrier within three clear days of delivery (or, in the case of non delivery, within 28 days of the despatch of the goods) and any claim in respect thereof must be made in writing to the Printer 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 the Printer within 28 days of delivery. The Printer shall not be liable in respect of any claim 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 claim made as soon as reasonably possible.

**15. Standing material** (a) Metal, film, glass, artwork, diskettes, electronic media and other materials owned by the Printer and used by him in the production of type, plates, moulds, stereotypes, electroplates, film-setting, negatives, positives and the like shall remain his exclusive property, whether or not they have been the subject of a separate origination charge to the Customer. Such items when supplied by the Customer shall remain the Customer's property.

(b) Type may be distributed and lithographic, photogravure, letterpress 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.

**16. Customers 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 the Printer or in transit to or from the Customer be deemed to be at Customer's risk unless otherwise agreed and the Customer should insure accordingly.

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

**17. Materials supplied by the Customer** (a) The Printer may reject any paper, plates, 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 part of any additional cost could have been avoided but for unreasonable delay by the Printer 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, the Printer 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 so supplied shall be adequate to cover normal spoilage.

(d) No liability is accepted for replacement of or re-imbusement for components, parts or goods supplied by the Customer if incorrectly printed, stamped or marked by the Printer.

**18. 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, the Printer, 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 any 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) **Reservation of Title.** Title to goods sold will remain with the Printer and will not pass to the Customer until the Printer has received payment for those goods in full notwithstanding delivery of the same to the Customer, and until such payment is made the Customer will hold the goods as trustees for the Printer and will not make use of or dispose of the goods and will clearly identify the goods as belonging to the Printer. In the event of the use or disposal of the goods by the Customer prior to payment in full of the price, the Customer shall hold the proceeds of the sale as trustees for the Printer and such proceeds of the sale will be placed in an account on behalf of the Printer in such a way as to be identifiable as the property of the Printer. In the event of non-payment, the Printer will be entitled in addition to all other rights available to it to enter into any premises where the goods may be and recover possession of same.

(iii) **Lien** In circumstances where the Printer holds goods for or on behalf of the Customer, the Printer will have the right of lien on all such goods for any debts, claims and liabilities whatsoever for which the Customer may from time to time be liable to the Printer whether or not the same are due at the time of sale of the goods and whether they are due or become due when the lien is insisted upon. The Printer will exercise this right of lien at its discretion by sale or retention of the goods and in the event of a sale will retain the proceeds towards or to meet all such debts, claims and liabilities. This right of lien is in addition to and without prejudice to the Printers right of reservation of title in the case of goods which have not been paid for. Any such acknowledgement by the Printer that the goods are being held on behalf of the Customer does not constitute an acknowledgement that the Customer has title to same.

**19. Illegal matter** (a) The Printer shall not be required to print any matter which 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) The Printer shall be indemnified by the Customer in respect of any claims, costs and expenses arising out of any libellous matter or 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.

**20. Force majeure** The Printer 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.

**21. Specified material** The Printer reserves the right to substitute alternative equivalent material to that specified or ordered when necessary due to the exigencies of production.

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