

**M&D PRINTING
TERMS AND CONDITIONS**

Terms and Conditions: All orders for the products or services of Seller are subject to these conditions of sale. No modifications of or additions to these terms will be recognized by Seller unless specifically agreed to in writing by an authorized officer of Seller. Failure of Seller to object to provisions contained in any purchase order or other communication from the Purchaser shall not be construed as a waiver of these terms and conditions or acceptance of other or additional terms and conditions.

1. **Prices and Production.** M&D's labor prices valid for 30 days from quotation date, unless otherwise agreed upon. Quote is based on current paper prices. Paper is subject to adjustment and availability at the time the paper is shipped from the supplier, unless otherwise agreed upon. Production time is subject to equipment availability and mutual agreement of the production schedule. This quotation is subject to credit approval.

2. **Quality of Work.** Seller agrees to achieve commercially acceptable quality subject to the limitations of Applicant's specifications, the materials furnished and the software and equipment used for the Work. **This warranty is the only warranty made by Seller and all other warranties, expressed or implied, are hereby specifically excluded.**

3. **Insurance.** Seller shall, at its own cost and expense, carry "all risks" insurance, subject to the usual exclusions, limitations and conditions of such policies, for (i) all materials furnished by Seller, (ii) all Work in process and finished Work until delivery. Notwithstanding anything to the contrary herein, if Applicant furnishes its own paper for the Work hereunder, Applicant shall assume the risk of and may carry such insurance as it deems desirable on Applicant's furnished paper stored by Seller on or off Seller's premises, and Seller shall only have the obligation to insure such paper from the time it is inserted in Seller's presses until delivery of the completed Publications in accordance with Section 3. To the extent that Applicant carries such insurance, Applicant hereby grants a waiver of subrogation in Seller's favor for any claims related to materials furnished by Applicant.

4. **Risk of Loss.** Applicant shall bear all risk of loss to finished Work upon delivery of the Work by Seller or its subcontractor, as applicable, to a common or contract carrier or to the U.S. Postal Service, F.O.B. Seller's or its subcontractor's, shipping dock. All mechanicals, paper, film, plates, etc., not supplied by Applicant but used to perform the services hereunder shall remain the exclusive property of Seller unless otherwise agreed in writing.

5. **Payment Terms.** Unless otherwise specified herein in writing, payment for printing services and paper and freight shall be net cash, due thirty (30) days from invoice date. Invoice date will be the dates any of the Work is first available for shipment. Postage to be funded by Applicant in advance of mailing. **WHATEVER THE TERMS, SELLER WILL BE ENTITLED TO INTEREST ON OVERDUE AMOUNTS (EXCEPT FOR AMOUNTS DISPUTED IN REASONABLE GOOD FAITH BY APPLICANT) AT A RATE EQUAL TO ONE AND ONE HALF PERCENT (1½%) PER MONTH OR EIGHTEEN PERCENT (18%) PER ANNUM, OR THE MAXIMUM RATE ALLOWED BY LAW, WHICHEVER IS LESS.** In addition, in the event Applicant fails to pay Seller's invoices when due, Applicant shall be liable to Seller for all attorneys' fees and expenses expended to collect the past due amounts. In the event Applicant shall default with respect to any of the terms and conditions hereof, including but not limited to failure to pay any amount due hereunder (other than an amount in reasonable good faith dispute of which Applicant has given Seller written notice prior to its due date) in accordance with the payment terms of this Agreement, upon the occurrence of such default and so long as such default is continuing, Seller, in addition to any other rights it may have, shall have the right to suspend or discontinue work and any deliveries and retain Applicant's materials and work in process until such default is cured.

6. **Specifications for Work; Additional Charges.** The Work is to be performed according to specifications expressly set forth herein and in any of Seller's specifications relating to particular portions of the Work, as provided to Applicant. If for any reason, other than solely Seller's error, all or any part of the Work must be redone, an additional charge will be made therefor at current rates. An additional charge at current rates may also be made for work requested by Applicant that is different from or in addition to the Work, as specified in these Terms and Conditions. Seller may, in its sole discretion, subcontract any and all of the work hereunder. In the event of cancellation of all or any part of the Work covered hereby Applicant will give Seller as much notice as reasonably practicable. Applicant will be liable for all down-time expenses Seller may incur as a result of such cancellation or deviation, including, without limitation, down press and bindery time, that are not otherwise avoidable by Seller through reasonable commercial efforts, and for materials ordered or inventoried on Applicant's behalf and not otherwise usable by Seller in the ordinary course of its business within a reasonable period of time at the scheduled plant of production.

7. **Quantity Variation.** Variations in quantity over or under the quantities ordered constituting acceptable delivery shall be as set forth in the Quotation. Such excess or deficiency shall be charged or credited at the rate set forth in the Quotation.

8. **LIMITATION OF LIABILITY. ALL CLAIMS FOR DEFECTIVE OR DAMAGED WORK OR FOR SHORTAGES OR MISSED SHIPMENTS MUST BE MADE BY APPLICANT IN WRITING WITHIN THIRTY (30) DAYS AFTER SELLER'S SHIPMENT OF SUCH WORK. FAILURE TO MAKE SUCH A CLAIM WITHIN SUCH PERIOD SHALL CONSTITUTE AN IRREVOCABLE ACCEPTANCE OF THE WORK AND AN ADMISSION THAT IT FULLY COMPLIES WITH ALL OF THE TERMS, CONDITIONS AND SPECIFICATIONS OF THESE TERMS AND CONDITIONS. WITHOUT LIMITING THE FOREGOING, SELLER'S LIABILITY FOR ANY AND ALL CLAIMS WHATSOEVER OF ANY KIND AND NATURE ARISING OUT OF THIS AGREEMENT SHALL BE LIMITED TO SELLER'S PRICE TO APPLICANT FOR PRINTING THE PAGES, PAGE OR FRACTION THEREOF INVOLVED OR FOR PERFORMING THE SERVICE FOR THE INDIVIDUAL COPY (IES) INVOLVED**

OR, AT SELLER'S SOLE OPTION, REPLACING THE PRINTED MATERIALS OR OTHER GOODS WHICH ARE THE SUBJECT OF APPLICANT'S CLAIM. NOTWITHSTANDING THE FOREGOING TO THE EXTENT THE MATERIAL SUBMITTED BY APPLICANT DOES NOT CONFORM TO SELLER'S SPECIFICATIONS OR OTHERWISE DOES NOT STRICTLY MEET THE DEADLINES IN THE PRODUCTION SCHEDULE, SELLER SHALL HAVE NO LIABILITY FOR THE CLAIMED ERRORS. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR LOST POSTAL DISCOUNTS HOWEVER PROXIMATE OR FORESEEABLE, ARISING OUT OF THESE TERMS AND CONDITIONS OR THE WORK TO BE PERFORMED HEREUNDER OR ANY OTHER WORK PERFORMED BY SELLER ON BEHALF OF APPLICANT AFTER THE DATE HEREOF. MOREOVER, IN NO EVENT SHALL SELLER EVER BE LIABLE FOR ANY SUMS IN EXCESS OF SELLER'S INVOICE PRICE, FOR THE AFFECTED WORK.

9. Indemnification. In furnishing materials to Seller to reproduce or incorporate in any completed Work, Applicant represents and warrants that such materials shall not be toxic and shall not infringe any law, trademark, servicemark, copyright, any other proprietary right, or any license relating thereto, contain any libelous or otherwise actionable statement, nor otherwise violate the rights of or cause damage or injury to any person. **"Materials(s)"** as used in this Section shall include, without limitation, perfumes, titles, brand names, photographs, designs, drawings, photographic images, prototypes, specifications, artwork, personally identifiable information or other such materials, of whatever nature and in whatever form received by Seller from or at the direction of Applicant, including, without limitation, electronically communicated and digitally scanned material.

Applicant agrees to indemnify and save Seller harmless of and from any and all losses, claims, or damages (but not consequential damages except as finally awarded to a third party claimant) including reasonable attorney's fees and expenses which Seller may suffer or incur in the event any claim is threatened or made against Seller by any person, firm, corporation or otherwise for any cause of whatsoever nature, including, without limitation, for actual or alleged infringement of any proprietary right (including, but not limited to, trademark, trade secret, patent or copyright rights) or any actual or alleged misuse of personally identifiable information, arising from, relating to or as a result of the printing, binding, publishing or distribution of the Work produced hereunder or arising from, relating to or as a result of any material, of whatever nature and in whatever form received by Seller from or at the direction of Applicant, included in the Work, provided that Applicant shall not be liable hereunder to the extent of damages caused by Seller's unauthorized change or deletion of Applicant furnished material. Applicant further agrees, upon Seller's request, to defend on behalf of Seller by attorneys reasonably acceptable to Seller, but at Applicant's cost and expense, any such actions, proceedings, claims and/or demands made against Seller by a third party. Seller agrees to notify Applicant of said claim, action, proceeding or demand as soon as reasonably practicable upon receipt of notice of same. The provisions of this Section shall survive the termination or expiration of this Agreement.

10. Force Majeure, Interruption of Work. Seller shall not be liable for delays in performance or failure of performance to the extent prevented or caused by force majeure events. Force majeure events are defined as acts of God, fires, floods, civil disobedience, acts of war, new outbreaks of hostilities, strikes or other labor disputes, unavailability or shortages of materials, governmental regulations or decrees, reasonably unanticipable equipment failures, Applicant's delays and any and all other causes not within the reasonable control of Seller, whether or not of the class of causes hereinbefore enumerated. Resolution of all force majeure events including settlement of any strike or other labor dispute shall be at Seller's sole discretion.

11. Assignment. In the case of a sale or other transfer of Applicant or the business of publishing the Work or any title covered hereby, whatever the form of transaction, the purchaser, concurrently with the consummation of such sale, shall assume all of Applicant's rights and obligations under this Agreement in a written instrument satisfactory to Seller, subject to Seller's prior written consent, not to be unreasonably withheld. If Seller does not consent to such assignment and assumption, this Agreement shall terminate, subject to Applicant's payment of all amounts due under this Agreement. Subject to the foregoing, this Agreement shall be binding on Applicant's successors and assigns.

12. Agreement Construction. The contract created by Applicant's acceptance of these Terms and Conditions shall be construed under and in accordance with the laws of the State of Illinois without regard to principles of conflicts of laws. The captions set forth herein are for convenience only and do not constitute a part of these Terms and Conditions.

13. Orders and Instructions; Purchase Orders. Any terms and conditions additional to or different from those set forth in these Terms and Conditions will be of no force or effect, unless in a writing signed by an officer of Seller expressly stating that it intends to modify the terms and conditions hereof. All orders and instructions pursuant to these Terms and Conditions, and all changes thereto, must be in writing. Consistent with the above, in the event that after the date hereof Applicant submits purchase orders or any other written instructions that contain any terms or conditions, such order or other written instructions shall be considered as a confirmation *only* and the terms and conditions shall in no way amend, prevail over, supplement or supersede any term or condition hereof.

14. Jurisdiction; Venue; Attorney Fees. Suit to enforce this Agreement or any provision or portion thereof will be brought exclusively in the state court located in Marshall County, State of Illinois. Each party to this Agreement irrevocably agrees that all claims in respect of such actions or proceedings may be heard and determined in such courts and irrevocably submits to the jurisdiction thereof. Each of the parties irrevocably waives, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to laying venue of any such dispute brought in such court or any defense of inconvenient forum in connection therewith. Each party hereby irrevocably consents to the service of any and all process in any action or proceeding arising out of or relating to this Agreement by the mailing of copies of process to such party at the principal business address for such party. The prevailing party in any legal action or proceeding brought to enforce this Agreement shall be entitled to recover from the other reasonable attorneys' fees, costs and expenses arising out of such legal action.