

MPD Offset Ltd
Terms of Trading

1 Business customers and consumers

1.1 Some of these terms apply to consumers only; some apply to business customers only. Those terms are marked as such.
1.2 All other terms apply to all customers.
1.3 You are classified as a business customer if you indicate to us that the goods supplied by us will be used in the course of your business or if you use the goods in the course of your business.
1.4 If you are not a business customer, you are a consumer. You have certain statutory rights as a consumer, which are not affected by these terms. Contact your local trading standards office for more information. Words in *italic type* are legal words which clarify, rather than alter, the meaning of the relevant clause.

1.5 No order submitted by you is deemed accepted by us unless and until confirmed by one of our authorized representatives.

2 Price

2.1 The price quoted excludes VAT (unless otherwise stated). VAT will be charged at the rate applying at the time of delivery.
2.2 Our quotations lapse after 30 days (unless otherwise stated).
2.3 The price quoted excludes delivery (unless otherwise stated).
2.4 **Business customers:** unless otherwise stated, the price quoted to business customers is an illustrative estimate only and the price charged will be our price current at the time of delivery.

2.5 **Business customers:** rates of tax and duties on the goods will be those applying at the time of delivery.
2.6 **Business customers:** at any time before delivery we may adjust the price to reflect any increase in our costs of supplying the goods.

3 Delivery

3.1 All delivery times quoted are estimates only.
3.2 If we fail to deliver within a reasonable time, you may (by informing us in writing) cancel the contract, however:

3.2.1 you may not cancel if we receive your notice after the goods have been dispatched; and
3.2.2 if you cancel the contract, you can have no further claim against us under that contract.

3.3 If you accept delivery of the goods after the estimated delivery time, it will be on the basis that you have no claim against us for delay (including *indirect* or *consequential* loss, or increase in the price of the goods).

3.4 We may deliver the goods in instalments. Each instalment is treated as a separate contract.
3.5 We may decline to deliver if:

3.5.1 we believe that it would be unsafe, unlawful or unreasonably difficult to do so; or
3.5.2 the premises (or the access to them) are unsuitable for our vehicle.

4 Risk

4.1 The goods are at your risk from the time of delivery.
4.2 Delivery takes place either:

4.2.1 at our premises (if you are collecting them or arranging carriage); or
4.2.2 at your premises or address specified by you (if we are arranging carriage).

4.3 You must inspect the goods on delivery. If any goods are damaged or not delivered, you must write to tell us within seven days of delivery or the expected delivery time. You must give us (and any carrier) a fair chance to inspect the damaged goods.

4.4 Metal and other materials owned by us and used by us in the production of type, plate, dyes, formes and the like shall remain our exclusive property. Such items when supplied by you shall remain your property.

5 Payment terms

5.1 You are to pay us in cash or in cleared funds on delivery, unless you have an approved credit account.

5.2 **Business customers:** If you have an approved credit account, payment is due no later than 30 days after the date of our invoice unless otherwise agreed in writing.

5.3 If you fail to pay us in full on the due date we may:

5.3.1 suspend or cancel future deliveries;
5.3.2 cancel any discount offered to you;
5.3.3 charge you interest at the rate set under s.6 of the Late Payment of Commercial Debts (Interest) Act 1998;

a. calculated (on a daily basis) from the date of our invoice until payment;
b. compounded on the first day of each month; and
c. before and after any judgment (unless a court orders otherwise);

5.3.4 claim fixed sum compensation from you under s.5A of that Act to cover our credit control overhead costs; and
5.3.5 recover (under clause 5.8) the cost of taking legal action to make you pay.

5.4 If you have an approved credit account we may withdraw it or reduce your credit limit or bring forward your due date for payment. We may take any of these actions at any time and without notice.

5.5 **Business Customers:** you do not have the right to set off any money you may claim from us against anything you may owe us.

5.6 **Consumers:** you may only set off money you claim from us against money you owe us with our written agreement and on such terms as we may state.

5.7 While you owe money to us, we have a right to keep any property we may hold of yours until you have paid us in full (a *lien*).

5.8 You are to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly and including finance costs and legal costs on a full indemnity basis) following any breach by you of any of our obligations under these terms.

5.9 **Consumers:** clause 5.8 means that you are liable to us for losses we incur because you do not comply with these terms. We may claim those losses from you at any time and if we have to take legal action we will ask the court to make you pay our legal costs.

6 Proofs

6.1 We are not liable for errors in any proofs we send to you if you do not advise us of the errors in good time before printing.

6.2 Unless otherwise agreed we are not liable for the accuracy of information that you supply us in electronic form.

6.3 You warrant:
6.3.1 that the specifications, designs or materials will not result in the infringement of any rights belonging to a third party nor criminal proceedings; and
6.3.2 that you will indemnify us in all respects of all loss, damage, costs or expenses (directly or indirectly and including finance costs and legal costs on a full indemnity basis) which we may incur in connection with any threatened or actual civil claim or prospective or actual criminal proceedings.

6.4 We have the right to reject any of your specifications, instructions or materials if (in our reasonable opinion) they are in breach of 6.3. You are liable for any additional costs incurred as a result except where there was unreasonable delay by us in discovering any unsuitability or inaccuracy.

6.5 By supplying goods to you we do not waive any intellectual property rights (including any design rights) that we may have in respect of them.

6.6 We reserve the right to make without notice any minor modifications in our specifications, designs or materials as we think necessary or desirable.

6.7 We also reserve the right to make changes in the specifications, designs or materials of our goods that are necessary to ensure they conform with any applicable safety or other statutory requirements.

6.8 Experimental work and work carried out at your request will be charged for.

6.9 You must allow a quantity margin of 5% more or less for work of one colour and 10% more or less in the case of other work without any adjustment in price except in the case of quantities exceeding 250,000 the margins shall be 4% for one colour and 8% for other work.

6.10 Quantities of materials supplied shall be adequate to cover normal spoilage.

6.11 If we prepare the goods in accordance with your specifications or instructions you:

6.11.1 must ensure that the specifications or instructions are accurate; and
6.11.2 must ensure that goods prepared in accordance with those specifications or instructions will be fit for the purpose for which you intend to use them; and
6.11.3 warrant that the specifications or designs will not result in the infringement of any rights belonging to a third party and that you will indemnify us in respect of all loss, damage, costs or expenses (including legal fees) which we may incur in connection with any such claim or threatened claim by a third party.

6.12 All materials we use in the production of type, plates and photo-type setting are our property. Unless otherwise agreed in writing, we may efface all lithographic plates as soon as the contract is completed.

6.13 You must ensure that colour transparencies or photographs submitted to you are suitable for your requirements

6.14 We cannot guarantee an exact colour match between your original colour photograph or transparency or any samples supplied by us and the finished product. If you require colour reproduction to a specific standard or if you wish to check colour reproductions prior to printing, you can order a colour proof, for which a charge will be made.

6.15 We may submit proofs of all work for your approval. In this case:

6.15.1 you must proofread any proofs submitted and confirm approval noting any amendments you require

6.15.2 we will charge for any corrections on or after proof and any alterations in style

6.15.3 we accept no responsibility for any errors which you have passed.

6.15.4 If you fail to approve any proofs submitted to you within a reasonable time, our obligations to you under the contract will end. We will charge you all work undertaken under the contract.

6.15.5 We retain the copyright for all creative work prepared or acquired on your behalf unless otherwise agreed in writing.

6.16 You will indemnify us in respect of all loss, damage, costs or expenses (including legal fees) which we may incur in connection with any claim or threatened claim by a third party in respect of any goods supplied by us. You must abide by the rulings of the Advertising Standards Authority and by the British Code of Advertising Practice. In order to satisfy the requirements of these codes you agree to supply us with objective and factual evidence in support of any service or product claims you wish to make.

7 Title

7.1 **Consumers:** your statutory rights are unaffected.

7.2 **Business customers:** until you pay all debts you may owe us:

7.2.1 all goods supplied by us remain our property;
7.2.2 you must store them so that they are clearly identifiable as our property;
7.2.3 you must insure them (against the risks for which a prudent owner would insure them) and hold the policy on trust for us;

7.2.4 you may use those goods and sell them in the ordinary course of your business, but not if:
a. we revoke that right (by informing you in writing); or
b. you become insolvent.

7.3 **Business customers:** you must inform us (in writing) immediately if you become insolvent.

7.4 **Business customers:** if your right to use and sell the goods ends you must allow us to remove the goods.

7.5 **Business customers:** we have your permission to enter any premises where the goods may be stored:

7.5.1 at any time, to inspect them; and
7.5.2 after your right to use and sell them has ended, to remove them, using reasonable force if necessary.

7.6 Despite our retention of title to the goods, we have the right to take legal proceedings to recover the price of goods supplied should you not pay us by the due date.

7.7 You are not our agent. You have no authority to make any contract on our behalf or in our name.

8 Warranties

8.1 We warrant that the goods:
8.1.1 comply with their description; and
8.1.2 are free from material defect at the time of delivery (as long as you comply with clause 8.4).

8.2 **Business customers:** we give no other warranty (and exclude any warranty, term or condition that would otherwise be implied) as to the quality of the goods or their fitness for any purpose.

8.3 **Consumers:** the warranty in clause 8.1 is in addition to your statutory rights.
8.4 If you believe that we have delivered goods which are defective in material or workmanship, you must:

8.4.1 inform us (in writing), with full details, as soon as possible; and
8.4.2 allow us to investigate (we may need access to your premises and product samples).

8.5 If the goods are found to be defective in material or workmanship (following our investigations), and you have complied with those conditions (in clause 8.4) in full, we will (at our option) replace the goods or refund part or all of the price.

8.6 We are not liable for any other loss or damage (including indirect or consequential loss, financial loss, loss of profits or loss of use) arising from the contract or the supply of goods or their use, even if we are negligent.

8.7 Our total liability to you (from one single cause) for damage to property caused by our negligence is limited to two million pounds.

8.8 For all other liabilities not referred to elsewhere in these terms our liability is limited in damages to the price of the goods.

8.9 Nothing in these terms restricts or limits our liability for death or personal injury resulting from negligence.

9 Specification

9.1 If we prepare the goods in accordance with your specifications or instructions you must ensure that:

9.1.1 the specifications or instructions are accurate;
9.1.2 goods prepared in accordance with those specifications or instructions will be fit for the purpose for which you intend to use them; and
9.1.3 your specifications or instructions will not result in the infringement of any intellectual property rights of a third party, or in the breach of any applicable law or regulation.

9.2 **Business Customers:** We reserve the right;
9.2.1 to make any changes in the specifications of our goods that are necessary to ensure they conform to any applicable safety or statutory requirements; and
9.2.2 to make without notice any minor modifications in our specifications we think necessary or desirable.

10 Periodicals

10.1 A contract for the printing of a periodical publication may not be terminated by either party unless 13 weeks notice is given in writing. In the case of periodicals produced monthly or more frequently 26 weeks notice in writing is required. Notice may be given at any time but wherever possible should be given after completion of work on any one issue. However, we may terminate any such contract immediately should any sum due remain unpaid.

11 Return of goods

11.1 We will accept the return of goods from you only:
11.1.1 by prior arrangement (confirmed in writing);

12 Cancellation

12.1 You may not cancel the order unless we agree in writing (and clauses 3.2.2 and 12.2 then apply).
12.2 If the order is cancelled (for any reason) you are then to pay us for all stock (finished or unfinished) that we may then hold (or to which we are committed) for the order.

12.3 We may suspend or cancel the order, by written notice if:
12.3.1 you fail to pay us any money when due (under the order or otherwise);
12.3.2 you become insolvent;
12.3.3 you fail to honour your obligations under these terms.

13 Waiver and variations

13.1 Any waiver or variation of these terms is binding in honour only unless:
13.1.1 made (or recorded) in writing;
13.1.2 signed on behalf of each party; and
13.1.3 expressly stating an intention to vary these terms.

13.2 All orders that you place with us will be on these terms (or any that we may issue to replace them). By placing an order with us, you are expressly waiving any printed terms you may have to the extent that they are inconsistent with our terms.

14 Force majeure - business customers only

14.1 If we are unable to perform our obligations to you (or able to perform them only at unreasonable cost) because of circumstances beyond our control, we may cancel or suspend any of our obligations to you, without liability.

14.2 Examples of those circumstances include act of God, accident, explosion, war, terrorism, fire, flood, transport delays, strikes and other industrial disputes and difficulty in obtaining supplies.

15 General

15.1 English law is applicable to any contract made under these terms. The English and Welsh courts have non-exclusive jurisdiction.

15.2 If you are more than one person, each of you has joint and several obligations under these terms.
15.3 If any of these terms are unenforceable as drafted:

15.3.1 it will not affect the enforceability of any other of these terms; and
15.3.2 if it would be enforceable if amended, it will be treated as so amended.

15.4 We may treat you as insolvent if:
15.4.1 you are unable to pay your debts as they fall due; or
15.4.2 you (or any item of your property) become the subject of:

a. any formal insolvency procedure (examples of which include receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy);
b. any application or proposal for any formal insolvency procedure; or
c. any application, procedure or proposal overseas with similar effect or purpose.

15.5 **Business customers:** All brochures, catalogues and other promotional materials are to be treated as illustrative only. Their contents form no part of any contract between us and you should not rely on them in entering into any contract with us.

15.6 **Business customers:** Any notice by either of us which is to be served under these terms may be served by leaving it at or by delivering it to (by first class post or by fax) the other's registered office or principal place of business. All such notices must be signed.

15.7 No contract will create any right enforceable (by virtue of the Contracts (Rights of Third Parties) Act 1999) by any person not identified as the buyer or seller.

15.8 The only statements upon which you may rely in making the contract with us, are those made in writing by someone who is our authorised representative and either:
15.8.1 contained in our estimate (or any covering letter) and not withdrawn before the contract is made; or
15.8.2 which expressly state that you may rely on them when entering into the contract.

15.9 Nothing in these terms affects or limits our liability for fraudulent misrepresentation.