



## The Color Company (TM) Limited Terms & Conditions of Trade

### Application and Representation

"The Color Company" is a trading style and Registered Trade Mark owned by DOWNDANIEL INVESTMENT HOLDING LIMITED and licensed to The Color Company (TM) Limited. A company registered in England and Wales under number 05266481 whose registered office is at 27a Poland Street, London, W1F 8QW.

All quotations and price lists issued, and all orders and contracts for work accepted by The Color Company, are subject to these Terms and Conditions, which may only be varied, in writing, by a duly authorised representative of The Color Company.

Acceptance of these Terms and Conditions shall be implied by a customer's acceptance of a quotation for services, by delivery of work to a branch of The Color Company or by a Customer commissioning work or services to be performed by The Color Company whether verbally or in writing.

### Interpretation and Definitions

*Business Customer:* An industrial, commercial, or professional operator who's involved in the purchasing or sales of goods and services.

*Consumer Customer:* A person who acquires goods or services for his or her own personal needs

*Contract:* An agreement with The Color Company to deliver (goods or services) or to do (something) on mutually agreed and binding terms, often in writing.

*Goods:* The tangible objects which are supplied by The Color Company™ Limited to the Customer in accordance with the Terms and Conditions

*Services:* The services to be provided to the Customer as set out in the accepted order

*Terms and Conditions:* This is the overall legal agreement that the customer or business partner must accept in order to be provided our services.

### Consumer Rights

These Terms and Conditions do not affect the statutory rights of a Consumer Customer. No provision which would be void by virtue of Sections 6 or 20 of the Unfair Contracts Terms Act 1977 (as amended) or by virtue of the Unfair Contracts Regulations 1994 shall apply to any contract with a Consumer Customer.

### 1. Limit of Liability

a) Under no circumstances shall a claim for compensation exceed the aggregate value of the processes performed by The Color Company and/ or the goods supplied. Where goods only have been supplied justified complaint shall be compensated (at The Color Company's discretion) by credit of an equal value or by replacement of the goods in question, regardless of any process performed on those goods after they left our possession.

b) We will not be liable for any indirect, special or consequential loss, damage, costs, or expenses; and/or any loss of profits; anticipated profits; loss of reputation or goodwill; or, other third-party claims.

### 2. Price

a) The price of the Goods and Services shall be the figure set out in the price list and/or quotation, on the date of your order, or such other price agreed in writing by The Color Company

b) The Color Company reserves the right to increase the price due to any factor beyond the Color Company's control including, but not limited to, material costs, labour costs, foreign exchange fluctuation, currency regulation, and changes to delivery rates). Any increase to the price will only be done after written notice is given to the Customer at any time before delivery/provision.

c) The price excludes any packaging or delivery/transportation fees.

### 3. Delivery and Payment

a) Delivery of the goods and/or provision of the services shall take place at the branch of The Color Company at which the order was placed or at such other place as may be agreed in writing. The Customer shall take delivery within 7 days of notification of availability having been given.

b) Any dates specified by The Color Company for delivery of goods and/or services are approximate only and shall not be made "of the essence" unless specifically agreed by The Color Company, in writing.

c) Subject to other provisions of these Conditions, The Color Company shall have no liability to the Customer for any loss (including loss of profit) costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the goods and/or the provision of services (except in the case of Consumer Customers, if caused by The Color Company's negligence or breach of contract).

d) In the case of Business Customers, any delay or failure in delivery or performance will not entitle the Business Customer to cancel the order unless and until the Business Customer has given to The Color Company 7 days written notice requiring delivery or performance within a reasonable period and The Color Company has not delivered or performed within that period. If the Business Customer cancels the order in accordance with this Condition then [please see Condition 3(e)(i) & (ii)]

e) In the case of Consumer Customers, any delay or failure in delivery or performance will not entitle the Consumer Customer to cancel the order unless and until the Consumer Customer has given to The Color Company reasonable written notice requiring delivery or performance within a reasonable period and The Color Company has not delivered

or performed within that period. If the Consumer Customer cancels the order in accordance with this Condition then [please see Condition 3(e) (i)& (ii)]

- (i) The Color Company will refund any sums which the Customer has paid in respect of the order which has been cancelled.
- (ii) The Customer will be under no liability to make further payments in respect of the cancelled order.

f) Payment for goods and/or services shall be due to The Color Company (by a non-Account Customer) immediately upon delivery of the completed order. At its absolute discretion, The Color Company may require the payment of a deposit, not exceeding 50% of the estimated cost of the order, before commencing the work.

#### **4. Cancellation, Refund, and Returns**

a) It is the Business or Consumer Customers (henceforth known singularly as Customers) responsibility to inspect the Goods on delivery or collection. If you identify any damages or shortages, you must inform us in writing within 5 days of delivery, providing details. Any queries relating to invoices should be made to The Color Company within 5 working days, and any query regarding non-delivery must be made within 14 days of the invoice date. Issues outside this limit will not be entertained.

- (i) Where the problem is clearly attributed to a mistake made by The Color Company, we will either, reprint the job, send out a replacement printing, or, negotiate a partial credit to compensate for a useable good.
- (ii) Where the problem can be fully attributed to you or/and taken place after delivery or collection, The Color Company will not be in any way held liable.

b) Other than by agreement, we will only accept returned Goods if we are satisfied that those Goods are defective and if required, have carried out an inspection.

c) Either The Color Company or the Customer can cancel an order prior to your acceptance of the quotation. We reserve the right to levy a small charge to cover any subsequent administrative expenses.

#### **5. Late Payment and Termination**

a) We can terminate the sale of Goods under the Contract where:

- (i) Either party commits a material breach of their obligations under these Terms and Conditions.
- (ii) You have a statutory demand or bankruptcy petition issued, and/or are about to become the subject of a bankruptcy order or take advantage of any statutory provision for the relief of insolvent debtors.

b) If a Customer ceases to/or cannot pay his debts, The Color Company will be within its right not to proceed further with the contract or any other work for the customer. The Customer will also be charged:

- (i) For work already carried out (whether completed or not) and materials purchased for the Customer.
- (ii) In respect to all unpaid debts due from the Customer have a general lien on all goods and property in his possession and shall be entitled on the expiration of 14 days' notice to dispose of such goods or property in such a manner deemed fit. The proceeds will be applied towards such debts.

#### **6. Variations in Quantity**

The Color Company shall endeavour to deliver the correct quantity of the Goods but orders for the Goods are accepted on the condition that the Customer accepts a margin of 5% (10% for colour copies) for the oversupply or shortfalls of quantity.

#### **7. Sub-Contracting**

The Color Company may engage sub-contractors to perform work or any part thereof on behalf of The Color Company. The Color Company enter into the contract for themselves, their servants and agents, and on behalf of their sub-contractors, agents and servants all of whom shall have the benefit of the contract and these Terms & Conditions.

#### **8. Credit Accounts**

On completion of an application form, The Color Company may open credit accounts for customers, subject to the conditions recited herein. The Color Company shall not be obliged to reveal its reasons for its refusal to respond favourably to any such application or for the level of credit permitted on the account. Unless otherwise agreed in writing, an invoice charged to a credit account shall be paid within 30 days of the end of the month in which the invoice is rendered. At the Color Company's discretion, interest may be charged on overdue amounts.

#### **9. Copyright**

a) The Customer warrants that any design or other material furnished by it or any design created by The Color Company pursuant to the Customer's instructions is and/or will not be defamatory or obscene or be such as to cause The Color Company to infringe any intellectual property rights of any third party or to infringe any legislation in force in the United Kingdom in the performance of the order.

b) The Customer shall promptly notify The Color Company in the event of any claim made or action brought against a Customer arising out of a breach of the Customer's warranty in (a) above and fully indemnify The Color Company in respect of all costs or damages arising in connection therewith.

c) Copyright in any original design created by The Color Company on the Customer's instructions shall vest in The Color Company until the charges in respect thereof have been paid in full whereupon The Color Company will assign such copyright to the Customer.

#### **10. Force Majeure**

The Color Company will make every effort to complete customer's instructions and the order but shall be under no liability if unable to carry out all or any part of the order for any reason beyond The Color Company's reasonable control including (without limitation) the inability to secure labour, materials or supplies, breakdown of machinery or as a result of an Act of God, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions

of Government, failure of power supply, industrial disputes of any kind (whether or not involving The Color Company's employees) fire, lightning, explosion, flood, subsidence, inclement weather or any other cause beyond The Color Company's reasonable control.



#### **11. Lien**

The Color Company shall have a lien over any materials delivered to it by the Customer against payment of any monies due to it by the Customer and shall be entitled (if any sum is not paid by the due date) to dispose of such of the Customer's property as The Color Company shall, at its absolute discretion, determine, provided that reasonable notice of such decision has been given to the Customer.

#### **12. Computer Access**

If the specified service includes use of The Color Company's computer equipment workstations then the Customer agrees to use such equipment only in accordance with the Computer and Internet Policy.

#### **13. Construction**

Each provision of this contract is to be construed as a separate term applying and surviving if for any reason one or the other of the said provisions is held inapplicable or unreasonable in any circumstances.

#### **14. Headings**

Headings used in these Terms and Conditions are for convenience only and shall not affect the construction thereof.

#### **15. Governing Law**

The formation, existence, construction, performance, validity and all aspects of the order or any term of the contract shall be governed by English Law. The English Courts shall have non-exclusive jurisdiction over any aspect of this Contract