

# **Countryside Art Limited ('The Company')**

## **Terms and Conditions of Sale (Business)**

### **1. Definitions**

1.1 The following words and expressions shall have the following meanings unless the context otherwise requires:

"Company" means Countryside Art Limited a company registered in England and Wales with registration number 05053561 whose registered office is at The Old Rectory, Church Lane, Alford, Lincolnshire, LN13 0BQ;

"Contract" means any agreement for the sale and purchase of Services which is entered into between the Company and the Customer;

"Customer" means the Person or Firm who has accepted these Terms;

"Deposit" means the deposit required to undertake any design work as part of the Services and as detailed within the Order Confirmation as defined in Clause 2.2 of these Terms;

"Goods" mean those products ordered by the Customer to be supplied by the Company pursuant to these Terms;

"Input Materials" means any templates, artwork, materials or other information supplied by the Customer to the Company pursuant to the Contract;

"Order" means an order made by the Customer for the supply of the Services by the Company;

"Services" means the services including the Goods to be provided by the Company to the Customer at detailed in the Order Confirmation issued in accordance with Clause 2.2;

"Templates" means [screens, films, etc ...];

"Terms" means these terms and conditions;

1.2 In these Terms

1.2.1 words in the singular include the plural meaning and words in the plural include the singular meaning; use of any gender includes the other genders;

1.2.2 headings are for reference only and do not affect the meaning or interpretation of these Terms;

1.2.3 references to any act, regulation, code of practice or statutory order shall be interpreted so as to include any change, re-enactment or extension of the act, regulation, code of practice or statutory order; and

1.2.4 any reference to "persons" includes natural persons, firms, partnerships, companies, corporations, associations, organisations, governments, states, foundations and trusts (in each case whether or not having separate legal personality).

### **2. Basis of Contract**

2.1 These Terms shall apply to the sale by the Company of all Services purchased by the Customer and these Terms shall govern each Contract to the exclusion of any other terms and conditions introduced or submitted by the Customer.

2.2 On the Customer placing an Order with the Company, the Company shall issue confirmation of that Order in writing ("**Order Confirmation**"). The Customer shall be under a duty to bring any discrepancies in the Order to the notice of the Company. Failure to do so shall entitle the Company to assume that the details are correct. The Company reserves the right to charge for any subsequent changes necessary as a result of the Customer's failure to check the Order Confirmation.

2.3 The Order placed by the Customer shall constitute an offer to purchase the Services. The Contract shall be made when the Company has issued an Order Confirmation in accordance with Clause 2.2 above ("**Commencement Date**").

2.4 The Customer shall at its own expense supply any Input Materials to the Company within 5 working days of the Commencement Date to enable the Company to provide the Service in accordance with the Contract. The Customer shall ensure that accuracy of all Input Material supplied by it.

2.5 The Company may, at any time, without notifying the Customer, make any changes to the Services which do not materially affect the nature or quality of the Services.

### **3. Approvals**

3.1 Any designs required in the provision of the Services are subject to written approval by the Customer before being submitted for printing. The Company shall not be liable for any errors after approval has been provided by the Customer.

3.2 It is the sole responsibility of the Customer to satisfy itself that all artwork and text is correct in all respects and the Customer must satisfy itself that there are no errors in the proof including but not limited to: size, wording, spelling, position, colour separation (if any), part changes and overall design and layout.

3.3 Where the Customer is not satisfied the proof is correct, the Company will carry out any amendments and then resubmit a further proof for approval by the Customer. This process will be repeated until the Customer is satisfied that the proof is correct and has confirmed approval of the proof in writing. If the customer decides not to proceed with the order where all reasonable steps have been taken to ensure the product is suitable to produce, the customer shall be liable for any relevant administrative and setup costs incurred thus far.

3.4 Non approval shall not be a reason to withhold payment of the Company's invoices.

### **4. Delivery**

4.1 The Company shall reasonably endeavour to deliver the Services to the Customer at such address notified by the Customer when the Order was placed where such delivery is within the United Kingdom mainland by no later than 56 days of the Commencement Date.

4.2 Notwithstanding Clause 4.1 above, delivery dates are estimates only and time of delivery is not of the essence. In the event the Company reasonably believes delivery is likely to take in excess of 12 weeks the Company will notify the Customer of the likely period of delay as soon as possible.

4.3 The Company shall be deemed to have fulfilled our contract by delivery of a quantity within 10% Plus or Minus of the quantity ordered.

### **5. Pricing**

5.1 The price of the Services shall be as specified within the Company's price list effective from time to time.

5.2 The price for the Order shall be confirmed to the Customer at the time when the Order is placed. The Customer shall be additionally liable to the Company for delivery charges which shall also be advised at the point of placing the Order.

### **6. Payment**

6.1 Unless otherwise agreed, all payments shall be made in sterling and can be made by either a telegraphic transfer of funds from a bank to an account specified by the Company or by cheque. If any payment is made by cheque to the Company then payment shall not be completed or deemed to have been made until the cheque is paid and honoured in cleared funds and the Company receives a credit to its account for the amount of the payment. In the event that the Company is unable to supply the Services for any reason, the Customer shall be informed as soon as possible and a full refund shall be given of any payment that has already been made.

6.2 Where the Company is undertaking design work in the performance of the Services, the Customer shall pay the Deposit to the Company on supply of the Input Materials and in any event prior to the Company commencing the Services.

6.3 Should the Customer fail to pay the balance of the Order prior to delivery of the Goods, the Company shall be entitled to delay delivery of the Order until payment has been made in full. Should payment still be outstanding 30 days following notice by the Company, the Company shall be entitled to retain the Deposit.

6.4 In the event that the Company discovers an error in the price of the Services ordered by the Customer, the Company shall notify the Customer as soon as possible providing the Customer the option of either reconfirming the Order at the correct price or cancelling the Order. If the Company is unable to contact the Customer for the purposes of this Clause 6.4, the Order shall be deemed cancelled and where the Customer has already made any payments for the Services they shall be refunded in full.

### **7. Risk and Title of Goods**

7.1 Risk of damage to or loss of the Goods shall pass to the Customer at the point of delivery to the Customer or on the date of first attempted delivery by the Company.

7.2 Ownership of the Goods shall pass to the Customer when:

7.2.1 the Company has received in full and cleared funds all sums due to it in respect of the Goods; and

7.2.2 the Goods have been delivered to the Customer.

### **8. Templates**

8.1 Title and property in the Templates shall remain with the Company. Templates unused for a period of [12 months] shall be disposed of by the Company who shall have no liability for their replacement. The Company will make every reasonable effort to notify the Customer beforehand of this intention and where possible provide [21 days] notice in advance inviting the Customer to pay in full for title in the Templates prior to their disposal. Should the Customer opt to purchase the Templates in accordance with this Clause 8.1 then delivery to the Customer shall be at its cost. The Company refuses to cover any liability for loss incurred by such action. For the avoidance of doubt, property in such Templates shall remain with the Company until settlement of the costs thereof have been received in full from the Customer.

### **9. Intellectual Property Rights**

9.1 The Company shall have no proprietary or other interest in any intellectual property rights in any Input Material.

9.2 In the provision of the Services the Customer shall grant to the Company, where appropriate a non-exclusive licence to use all copyrights or other intellectual property rights subsisting in any Input Material.

9.3 The Customer warrants that any Input Material and its use by the Company for the purpose of providing the Services will not infringe the copyright or other intellectual, statutory or common law rights of any third party, and the Customer shall indemnify the Company against any loss, damages, costs, expenses (including legal expenses on a full indemnity basis) or other claims arising from such infringement.

9.4 All copyrights or other intellectual property rights, subsisting in anything constituting the Goods or part therefore shall belong to the Company and shall remain so owned throughout the duration of the Contract and thereafter. Upon receipt of payment in full and in cleared funds the Company shall forthwith grant to the Customer a non-exclusive licence to use all copyrights or other intellectual property rights subsisting in anything constituting the Goods or part thereof.

### **10. Warranties and Liability**

10.1 The Company warrants that upon delivery, the Goods shall correspond with the agreed specification and shall be free from defects provided that the Company shall have no liability arising from failure by any person, other than the Company or the Company's employees or contractors, to follow the Company's instructions, inappropriate storage, further treatment or process to the Goods or any defect caused as a result of reasons which are outside of the Company's control.

10.2 Subject to Clause 10.5 and unless these Terms provide otherwise, any other warranty, condition or other term expressed or implied by statute, common law or otherwise is excluded. In particular, the Company makes no warranty as to the fitness of the Services for any particular purpose other than the normal purpose for which the Services are used even if that purpose is stated in the Customer's Order unless the Company specifically confirm in writing that the Services are fit for such a purpose. This exclusion includes recommendations or advice from the Company to the Customer relating to a specific enquiry. The Customer must satisfy itself as to the fitness for the purpose for which the Services are intended.

10.3 The Customer shall not be entitled to reject the Goods where the alleged defect or breach of contract is so slight that it would be unreasonable for it to do so.

10.4 Any claim by the Customer which is based on any defect in the quality or condition of the Services or their failure to correspond with the specification shall be notified to the Company immediately upon discovery of the defect or failure and in any event any valid claim so made shall not be accepted by the Company unless made within 3 days from the date of delivery of the Services. Any claim for items missing from the Order must be made within 10 days of the delivery date.

10.5 Nothing in these Terms excludes or limits the liability of the Company for death or personal injury caused by the negligence of the Company or any other liability which may not otherwise be limited or excluded under applicable law.

10.6 The Company shall not be liable nor be deemed to be in breach of contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Contract, if the delay or failure was due to any cause beyond the Company's reasonable control such as (but without limitation) any strike, lock-out or other form of industrial action, reduction in or unavailability of power at the Company's works or those of its suppliers, breakdown of manufacturing or other equipment and unavailability of raw materials.

10.7 The Company do not accept liability for any defect in the Services which has been specifically drawn to the Customer's attention before the Contract is made and/or where the Customer has examined the Goods before the Contract is made, and that examination ought to reveal any such defect. In all other cases the Customer shall give the Company a reasonable opportunity to inspect the Services in the same condition as they were at delivery after discovery of the defect and liability will not be accepted unless this procedure is followed.

10.8 Subject to Clause 10.5 and notwithstanding this Clause 10, the Company's aggregate liability (whether in contract, tort or otherwise) for loss or damage shall in any event be limited to a sum equal to the amount paid or payable by the Customer for the Services in respect of one incident or series of incidents attributable to the same cause.

10.9 Subject to Clause 10.5 above, the Company shall not be liable in contract, tort (including limitation negligence), pre-contract or other representations (other than fraudulent or negligent misrepresentations) or otherwise out of or in connection with the Terms for any:

10.9.1 economic losses (including without limitation loss of revenues, data, profits, contracts, business or anticipated savings); or

10.9.2 loss of goodwill or reputation; or

10.9.3 special or indirect losses

suffered or incurred by that party arising out of or in connection with the provision of any matter under these Terms.

### **11. Miscellaneous Provisions**

11.1 This Contract shall be governed by the laws of England and any dispute will be resolved exclusively in the courts of England.

11.2 The Customer may not assign or sub-contract any of its rights or obligations under these Terms or any related order for Services to any third party unless agreed upon in writing by the Company.

11.3 The Company reserves the right to transfer, assign, novate or sub-contract the benefit of the whole or part of any of its rights or obligations under these Terms or any related contract to any third party.

11.4 If any portion of these Terms is held by any competent authority to be invalid or unenforceable in whole or in part, the validity or enforceability of the other sections of these Terms shall not be affected.

11.5 These Terms do not create or confer any rights or benefits enforceable by any person that is not a party (within the meaning of the Contracts (Rights of Third Parties) Act 1999).

11.6 No delay or failure by the Company to exercise any powers, rights or remedies under these Terms will operate as a waiver of them nor will any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them. Any waiver to be effective must be in writing and signed by an authorised representative of the Company.

11.7 These Terms including the documents or other sources referred to in these terms and conditions supersede all prior representations undertakings and agreements between the Customer and the Company relating to the Order of Services and sets forth the entire agreement and understanding between the Customer and the Company.