

STANDARD TERMS AND CONDITIONS

BASIS OF QUOTATION OR ESTIMATE

- a) This quotation is based on the current costs of production and prices will remain unchanged for a period of 30 days. If not accepted within this period it may be varied.
- b) This quotation is based on sighting the copy and specifications to be supplied for reproduction. Typesetting quotations are based on sighting manuscript and typographical specifications. In the absence of copy or complete specifications an estimate only will be given on material of reproduction. A firm quotation may be given on receipt of material.
- c) The quotation does not include any costs that may be incurred by Ovato Creative Services Pty Ltd or Ovato Creative Services Geebung Pty Ltd (OCS) for handling or storing property or material supplied by or on behalf of the customer.
- d) One proof will be supplied with files, charged at a commercial rate, for the purpose of visually assessing the specifications and accuracy of the goods. Once approved by the customer the proof becomes the acceptable standard for the total accuracy of the printed result.
- e) Customer's alterations will incur additional charges.
- f) The proof must be returned to OCS when this is required to proceed with the order. This proof must be marked O.K. or O.K. with corrections. Colour changes or variations required from poor or unsuitable copy will be an extra charge.
- g) Where known the quotation includes the cost of goods or services that OCS may or is required by the customer to specially acquire for the work. Where such costs are not known at the time of quotation the uncosted goods or services may be indicated on the face of this document and the costs may be advised to the customer prior so work commencing on the goods.

TERMS AND CONDITIONS OF TRADING

1. Acceptance

The acceptance of OCS's quotation or the official customer order to proceed or a verbal instruction to proceed by the customer or his agent shall be an acceptance of these terms and conditions of trading.

2. Delivery and payment

- a) Unless otherwise agreed, the quoted price includes the supply of the goods to the customer's premises or a nominated agent if situated within a radius of 35 kilometres from OCS. Any specific delivery instructions in variance with this clause will be an additional charge. Upon delivery of the goods to the customer or his agent, the risk to the goods would be the customer's responsibility.
- b) Payment shall become due upon delivery of the goods to the client or his nominated agent.
- c) Standard pricing does not include the supply of native, raw or working files, meaning any file type, element or image used in the creation of full or partial artwork upon completion of a given project. If such files or elements are required, it is the responsibility of the client to request this to be included in the pricing at time of estimating or quoting. If this is not requested, an addition 25% of the total project cost will be applied for the release of native or raw files.
- d) Should work be required to be delivered prior to the date specified on the customer's order form, every effort will be made to secure freedom from defects, but OCS shall not be liable in any way for any defects or deterioration in quality whether caused by the negligence of or breach of contractual obligation by OCS, its servants or agents or otherwise howsoever.

3. Cancelled orders

In the event of orders being cancelled the customer will compensate OCS for all work and material used or specially procured to the date of the cancellation.

4. Suspension of work

The suspension by the customer of any work in progress, for any reason whatsoever shall entitle OCS to payment in full for the portion of the work completed and material used or specifically procured at the date of suspension.

5. Claims

All claims must be made in writing to OCS within 7 days of receipt of goods beyond which no claims, except those which are imposed by statute and cannot be excluded, restricted or modified, can be entertained. In the event of material for reproduction not coming to hand from the customer or his agent on the specified time, OCS reserves the right to extend the requested delivery time.

6. Suitability

- a) Where goods are provided or work is done in accordance with the customer's order no warranty, except those provided by statute and which cannot be excluded is given or shall be given that the goods or work are suitable in size, shape, capacity, quality, or otherwise for the purpose for which the goods are bought.
- b) If OCS makes available or offers to make available to the customer for approval or correction a proof of the material which OCS is to deliver to a client, newspaper, publisher, printer or other destination prior to the delivery of the material and the customer fails to give such approval, make corrections or accept the offer made prior to the time stipulated for delivery, the customer shall be liable for any direct or consequential loss sustained due to error.

7. Breach of contract

OCS shall be entitled to terminate work in the event of any breach by the customer or his agent of any term contained herein or otherwise forming part of this contract or the customer or his agent being unable to pay his debts, or committing an act of bankruptcy, entering into liquidation or entering into a scheme of arrangement with his creditors or, if being a company, being placed under Official Management or a Receiver being appointed under any Debenture or Charge issued or granted by it, or an Inspector being appointed by the other party under the provisions of the Companies Act or Ordinance in force in the State or Territory. Compensation for costs incurred and loss of profit up to the termination of work shall be the responsibility of the customer or his agent.

8. Force majeure

Contracts and deliveries may be suspended in the event of any tempest, riot, civil disturbance, war, strike, fire, accident, theft, crime or cause which could not have been prevented by OCS and which reasonably prevents or retards delivery of work and no responsibility shall be attached so OCS for any delay, default, loss or damage due to any of the above causes.

9. Limitations on liability

- a) Except to the extent that the customer has the benefit of any non-excludable statutory rights, whether as a consumer or otherwise, that OCS shall not be liable for any loss whatsoever caused to the customer by any act or default of OCS, its servants or agents whether or not such act or default is negligent or willful or otherwise actionable in tort and whether or not such act or default constitutes a breach or any contractual duty owed to the customer by the OCS. Without limiting the generality of the foregoing, OCS shall not be liable (except to the extent of any liability imposed by statute and which liability cannot as a matter of law be excluded by agreement between the

parties) for any loss or damage whatsoever arising from ----

- i.) failure by OCS, its servants or agents to take reasonable care to ensure that film, file or plate is in accordance with proof;
 - ii.) failure of OCS, its servants or agents to prepare a film, file or plate in accordance with the customer's order;
 - iii.) the making by OCS, its servants or agents of unauthorised alterations to a film, file or plate;
 - iv.) the supply by OCS of film, file or plate not in accordance with the customer's order;
- b) Where the customer suffers any loss or damage of any kind as a result of the act or default of OCS, OCS shall (at the option of OCS)
 - i.) replace the goods or supply equivalent goods;
 - ii.) repair the goods;
 - iii.) pay the cost of replacing the goods or of acquiring equivalent goods;
 - iv.) pay the cost of having the goods repaired.
 - c) Should work be required to be delivered prior to the date specified on this order form, every effort will be made to secure freedom from defects, but OCS shall not be liable in any way for any defects or deterioration in quality wherever caused by the negligence of or breach of contractual obligation by OCS, its servants or agents or otherwise howsoever.
 - d) OCS will not be liable for any reasonable variation in colour between colour proofs and the completed job. Because of the difference in equipment and conditions between colour proofing and press room operations a reasonable variation in such colour shall constitute an acceptable delivery.
 - e) Although OCS will take reasonable steps to ensure that materials supplied to a client, newspaper, publisher or printer is within acceptable trade standards and specifications, failure or inability of the client, newspaper, publisher or printer to reproduce the material to the expectation of the customer is in no way the responsibility of OCS and should the client, newspaper, publisher or printer so fail to produce the material, for whatsoever reason, including the negligence of OCS, no liability shall accrue to OCS.

Any such failure, alteration or supply shall not (except so the extent that by statute a defence is given which cannot as a matter of law be excluded by agreement between the parties) constitute any defence to any claim made by OCS for payment in respect of any work carried out by OCS.

10. Lien

OCS shall in respect of all unpaid debts due from the customer have a lien on all goods and property in his possession to the extent allowed by law. OCS shall have the right of disposal of the goods subject to the provisions of any State Act or Territory Ordinance provided he has complied with that Act or Ordinance.

11. Copyright

Where the customer orders the reproduction of any drawing, photograph or any other work which may properly form the matter of copyright protection the customer warrants that he has acquired all legal rights in the works which he requires to be reproduced and undertakes to indemnify OCS in respect of any liability for copyright infringement consequence upon such reproductions.

12. Ownership

- a) OCS's original designs remain the exclusive property of OCS and may only be reproduced with the consent of OCS.
- b) Sketches and dummies submitted by OCS on a speculative basis shall remain the property of OCS.
- c) Standard pricing does not include the supply of native, raw or working files, meaning any file type, element or image used in the creation of full or partial artwork upon completion of a given project. If such files or elements are required, it is the responsibility of the client to request this to be included in the pricing at time of estimating or quoting. If this is not requested, an addition 25% of the total project cost will be applied for the release of native or raw files.

13. Disc and tape storage

Unless arranged in writing prior to origination, the client shall have no right or title to material stored on any type of discs or magnetic tape or on any other electronic form of storage. Discs supplied by the client remain client property. OCS reserves the right so charge for duplication for transferring stored electronic material to client discs.

Unless instructed in writing to the contrary OCS will assume that any electronic storage material supplied by a customer is a duplicate copy of the original material.

14. Saving

Notwithstanding that OCS or the customer might agree in respect of any particular transaction whether expressly or by implication to waive any one or more of the above terms and conditions such agreement shall in no way release the customer or OCS from any other obligation or requirement set out herein unless such other obligation or requirement is consistent with the waiving of the term or terms.

15. Arbitration

All difference and disputes between OCS and the customer arising in connection with this contract shall be referred to arbitration in accordance with Arbitration Rules of the Graphic Arts Services Association of Australia.

16. Definitions

- a) Wheresoever the words OCS are used in this quotation or these terms and conditions they shall be deemed to mean the person, firm or company making the offer and the customer shall mean the person, firm or company to whom such offer is made.
- b) Definition of 'goods' means the final product supplied by OCS and in no way refers to any work carried out by any further process or processes.

17. Interest

Interest will be charged at two points above the market rate on all outstanding accounts over 7 days, unless a prior arrangement has been agreed to.

18. Rush work

Involving the interruption of normal production by OCS, may carry an additional charge.

19. Work outside normal hours

Work requested to be performed outside of normal working hours may carry an additional charge.

20. Cash on Delivery

The first job completed or COD Customers are required to pay for all goods and services prior to receiving them.