



STANDARD CONDITIONS OF CONTRACT (2018)

The following Terms and Conditions constitute the entire agreement between the parties and supersede any previous agreements, warranties, representations, undertakings or understandings between the parties and may not be varied except in writing.

1. Definitions

- a. "Seller" means the party providing the goods or services under these terms and conditions.
- b. "Buyer" means the party contracting with the Seller to acquire the good and services supplied under these terms and conditions.
- c. "Work" means all goods (by way of intermediate or finished product) and services supplied by the Seller to the Buyer.
- d. "Intermediates" means all products produced during the manufacturing process including non-exhaustively discs, film, plate, intellectual property.
- e. "Preliminary Work" means all work done in the concept and preparatory stages (including non-exhaustively design, artwork, colour matching).
- f. "Electronic File" means any text, illustration or other matter supplied or produced by either Party in digitised form on disc, through a modem, or by ISDN or any other communication link.
- g. "Periodical Publications" means publications produced at (normally regular) intervals.
- h. "Insolvency" means the Buyer is in a position where it is unable to pay its debts or has a winding up petition issued against it or has a receiver, administrator or administrative receiver appointed to it or being a person commits an act of bankruptcy or has a bankruptcy petition issued against him.

2. Payment

- a. Estimates are based on the Seller's current costs of production and, unless otherwise agreed in writing, are subject to amendment to meet any rise or fall in such costs that have taken place by the time of delivery.
- b. Estimates are given exclusive of tax and the Seller reserves the right to charge and the Buyer will pay any VAT or other tax payable.
- c. All work carried out shall be charged. This includes all Preliminary Work whether or not the Buyer agrees to that work being taken forward to production.
- d. Any additional work required of the Seller by reason of the Buyer supplying inadequate copy, incomplete or incorrect instructions or insufficient materials; or late delivery of the same shall be charged.
- e. Payment shall become due before delivery of the Work. The Seller, at his absolute discretion, may ask for part or full payment in advance of starting the Work.
- f. If Credit Facilities have been granted, payment is due by the end of the month following the month of Invoice. If any item(s) remain unpaid by that due date charges will apply, in accordance with s5A and/or s6 of the Late Payment Commercial Debt (Interest) Act 1998 or any subsequent enactment. In addition, all invoices will become due and payable immediately and will be treated as overdue items, with appropriate charges applied and all costs reasonably incurred in collecting the debt payable by the Buyer.
- g. Unless otherwise agreed in writing, the price of the Work will be "ex-works" and delivery shall be charged extra.
- h. Should the Work be suspended or delayed by the Buyer for any reason the Seller shall be entitled to charge for storage and for loss of or wastage of resources that cannot otherwise be used.
- i. Should the suspension or delay in 2(h) above extend beyond 30 days the Seller shall be entitled to immediate payment for work already carried out, materials specially ordered and any other additional costs.

3. Credit Facilities

Credit facilities may be granted to applicants who complete the Seller's Credit Account Application Form and who satisfy the Seller's criteria as set out from time to time. Where facilities are granted the Seller reserves the right to withdraw them at any time, without having to give their reasons and, in such a case, all outstanding invoices become due and payable immediately.

4. Delivery

- a. Delivery of the Work shall be accepted when tendered.
- b. Unless otherwise agreed in writing completion and delivery times are a guide only and, whilst the Seller will make every effort to adhere to proposed timescales, time is not of the essence in any contract with the Buyer.
- c. Unless otherwise agreed in writing, (in which case an extra charge may be made) delivery will be to kerbside at the Buyer's address and the Buyer will make arrangements for off-loading and for any additional transportation to its storage facility.
- d. Subject to any agreement as per 4(c) above, delivery involving difficult access and/or unreasonable distance from vehicular access shall entitle the Seller to make an extra charge to reflect its extra costs.
- e. Should expedited delivery be agreed the Seller shall be entitled to make an extra charge to cover any overtime or any other additional costs.

5. Materials supplied or specified by the Buyer

5.1 Electronic Files

- a. It is the Buyer's responsibility to maintain a copy of any original Electronic File provided by the Buyer.
- b. The Seller shall not be responsible for checking the accuracy of supplied input from an electronic file unless otherwise agreed in writing.
- c. Without prejudice to clause 5.2(b), if an electronic file is not suitable for outputting on equipment normally adequate for such purposes without adjustment or other corrective action the Seller may make a charge for any resulting additional cost incurred or may reject the file without prejudice to his rights to payment for work done/material purchased.

5.2 Other Materials

- a. Metal, film and other materials owned by the Buyer and supplied to the Seller for the production of type, plates, film-setting, negatives, positives, electronic files and the like shall remain the Buyer's exclusive property. However where the content is generated by the Seller, the Seller may, in order to protect his intellectual property rights and at his absolute discretion, replace such material with unused material of a similar or better quality.
- b. The Seller may reject any film, discs, paper, plates, electronic files or other materials supplied or specified by the Buyer which appear to him to be unsuitable for the purpose intended. Additional cost incurred if materials are found to be unsuitable during production may be charged except that if the whole or any part of such additional cost could have been avoided but for unreasonable delay by the Seller in ascertaining the unsuitability of the materials then that amount shall not be charged to the Buyer.
- c. Without prejudice to clause 5.2.b, where materials are so supplied or specified, and the Seller so advises the Buyer, and the Buyer instructs the Seller in writing to proceed anyway, the Seller will use reasonable endeavours to secure the best results, but shall have no liability for the quality of the end-product(s).
- d. Quantities of materials supplied shall be adequate to cover normal spoilage. Any costs incurred as a result of shortages, including re-starting jobs, duplicating masters etc will be charged in addition to the estimated price.

5.3 Risk and storage

- a. Buyer's property and all property supplied to the Seller by or on behalf of the Buyer shall while it is in the possession of the Seller or in transit to or from the Buyer be deemed to be at Buyer's risk unless otherwise agreed in writing and the Buyer should insure accordingly.
- b. The Seller shall be entitled to make a reasonable charge for the storage of any Buyer's property left with the Seller before receipt of the order or after notification to the Buyer of completion of the work.

5.4 Finished Goods

- a. The risk in the Work and all goods delivered in connection with the Work shall pass to the Buyer on delivery and the Buyer should insure accordingly.
- b. On completion of the Work, the Seller will store the Buyer's materials and Work for a maximum of one month, after which time they will be destroyed without further notice.

6. Materials and equipment supplied by the Seller

- a. Metal, film and other materials owned by the Seller and used in the production of intermediates, type, plates, film-setting, negatives, positives, electronic files and other production processes, together with items thereby produced, shall remain the Seller's exclusive property.
- b. Type shall be distributed and film and plates, tapes, discs, electronic files or other work destroyed immediately after the order is executed unless written arrangements are made to the contrary. In the latter event, storage shall be charged.
- c. The Seller shall not be obliged to download any digital data from his equipment or supply the same to the Buyer on disc, tape or by any communication link.

7. Retention of Title

- a. The Work remains the Seller's property until the Buyer has paid for it and discharged all other debts owing to the Seller.
- b. If the Buyer becomes subject to Insolvency and the Work has not been paid for in full the Seller may take the goods back and, if necessary, enter the Buyer's premises to do so, or to inspect and/or label the goods so as to identify them clearly.
- c. If the Buyer shall sell the goods before they have been paid for in full he shall hold the proceeds of sale on trust for the Seller in a separate account until any sum owing to the Seller has been discharged from such proceeds.
- d. Where the Buyer is in breach of these Terms or performs any act of Bankruptcy or Insolvency the Seller reserves the right to approach the Buyer's customer and to offer the Work directly to them, notwithstanding



the fact that this will involve advising the Buyer's customer that the Buyer is in breach or in default.

8. Proofs and variations

- a. The Seller shall incur no liability for any errors not corrected by the Buyer where the Buyer has been provided with proofs. The Buyer's alterations and additional proofs necessitated thereby shall be charged extra. When style, type or layout is left to the Seller's judgement, changes therefrom made by the Buyer shall be charged extra.
- b. Where the Buyer specifically waives any requirement to examine proofs the Seller is indemnified by the Buyer against any and all errors in the finished Work.
- c. Colour proofs Due to differences in equipment, paper, inks and other conditions between colour proofing and production runs, a reasonable variation in colour between colour proofs and the completed job will be deemed acceptable unless otherwise agreed in writing.
- d. Variations in quantity Every endeavour will be made to deliver the correct quantity ordered, but estimates are conditional upon margins of 5 per cent for work being allowed for overs or unders the same to be charged or deducted, unless otherwise agreed in writing.

9. Claims and Liability

9.1 Claims

- a. Advice of damage, delay or loss of goods in transit or of non-delivery must be given in writing to the Seller and the carrier within three clear days of delivery (or, in the case of non-delivery, within 3 days of notification of despatch of the goods) and any claim in respect thereof must be made in writing to the Seller and the carrier within seven clear days of delivery (or, in the case of non-delivery, within 7 days of notification of despatch). All other claims must be made in writing to the Seller within 14 days of delivery. The Seller shall not be liable in respect of any claim unless the aforementioned requirements have been complied with except in any particular case where the Buyer proves that (i) it was not possible to comply with the requirements and (ii) the claim was made as soon as reasonably possible.
- b. If the Work is defective so that the Buyer may in law reject it, said rejection must take place within 7 days of delivery of the goods, failing which the Buyer will be deemed to have accepted the Work.
- c. In the event of all or any claims or rejections the Seller reserves the right to inspect the Work within seven days of the claim or rejection being notified.

9.2 Liability

- d. Insofar as is permitted by law where Work is defective for any reason, including negligence, the Seller's liability (if any) shall be limited to rectifying such defect, or crediting its value against any invoice raised in respect of the Work.
- e. Where the Seller performs its obligations to rectify defective Work under this condition the Seller shall not be liable for indirect loss, consequential loss or third party claims occasioned by defective Work and the Buyer shall not be entitled to any further claim in respect of the Work nor shall the Buyer be entitled to repudiate the contract, refuse to pay for the work or cancel further deliveries.
- f. Defective Work must be returned to the Seller before replacement or credits can be issued. If the subject Work is not available to the Seller the Seller will hold that the Buyer has accepted the Work and no credits or replacement Work will be provided.
- g. The Seller shall not be liable for indirect loss, consequential loss or third party claims occasioned by delay in completing the work or for any loss to the Buyer arising from delay in transit, whether as a result of the Seller's negligence or otherwise.
- h. Where the Seller offers to replace defective Work the Buyer must accept such an offer unless he can show clear cause for refusing so to do. If the Buyer opts to have the work re-done by any third party without reference to the Seller the Buyer automatically revokes his right to any remedy from the Seller, including but not exclusively the right to a credit in respect of Work done by the Seller.
- i. Where the Work will be forwarded by or on behalf of the Buyer to a third party for further processing the Buyer will be deemed to have inspected and approved the Work prior to forwarding and the Seller accepts no liability for claims arising subsequent to the third party's processing.
- j. The Seller reserves the right to reject any work forwarded to him after initial processing by a third party as soon as is reasonably practicable without processing the work any further. Should the Buyer require the Seller notwithstanding to continue, then the Seller is only obliged to do so after confirmation from the Buyer in writing.
- k. Nothing in these conditions shall exclude the Seller's liability for death or personal injury as a result of its negligence.

10. Insolvency

Without prejudice to other remedies, if the Buyer becomes insolvent, the Seller shall have the right not to proceed further with the contract or any other work for the Buyer and be entitled to charge for work already carried out (whether completed or not) and materials purchased for the Buyer, such charge to be an immediate debt due to him. Any unpaid invoices shall become immediately due for payment.

11. General Lien

Without prejudice to other remedies, in respect of all unpaid debts due from the Buyer the Seller shall have a general lien on all goods and property of or provided by the Buyer in his possession (whether worked on or not) and shall be entitled on the expiration of 14 days' notice to dispose of such goods or property as agent for the Buyer in such manner and at such price as he thinks fit and to apply the proceeds towards such debts, and shall when accounting to the Buyer for any balance remaining be discharged from all liability in respect of such goods or property.

12. Illegal matter

- a. The Seller shall not be required to print any matter which in his opinion is or may be of an illegal or libellous nature or an infringement of the proprietary or other rights of any third party.
- b. The Seller shall be indemnified by the Buyer in respect of any claims, costs and expenses arising out of the printing by the Seller for the Buyer of any illegal or unlawful matter including matter which is libellous or infringes copyright, patent, design or any other proprietary or personal rights. The indemnity shall include (without limitation) any amounts paid on a lawyer's advice in settlement of any claim that any matter is libellous or such an infringement.

13. Periodical publications

A contract for the printing of a periodical publication may not be terminated by either party unless 13 weeks notice in writing is given in the case of periodicals produced monthly or more frequently or 26 weeks notice in writing is given in the case of other periodicals. Notice must be given after completion of work on any one issue. Nevertheless the Seller may terminate any such contract forthwith should any sum due thereunder remain unpaid.

14. Force majeure

The Seller shall be under no liability if he shall be unable to carry out any provision of the contract for any reason beyond his reasonable control including (without limiting the foregoing): Act of God; legislation; war; fire; flood; drought; inadequacy or unsuitability of any instructions, electronic file or other data or materials supplied by the Buyer; failure of power supply; lock-out, strike or other action taken by employees in contemplation or furtherance of a dispute; or owing to any inability to procure materials required for the performance of the contract. During the continuance of such a contingency the Buyer may by written notice to the Seller elect to terminate the contract and pay for work done and materials used, but subject thereto shall otherwise accept delivery when available.

15. Data Protection

For the purposes of this clause the following definitions shall have the following meaning:

- "Client Personal Data" shall mean personal data:(i) supplied to Elle Media Group Ltd by or on behalf of the Client; and/or (ii) obtained by, or created by, Elle Media Group Ltd on behalf of the Client in the course of delivery of Services, and which in each case is processed by Elle Media Group Ltd in connection with Services;
- "Data Controller" shall have the same meaning as defined in the GDPR;
- "Data Privacy Laws" shall mean the following as amended, extended or re-enacted from time to time:(i) EC Directive 1995/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data; (ii) EC Directive 2002/58/EC on Privacy and Electronic Communications; (iii) EC Regulation 2016/679 (the "GDPR") on the protection of natural persons with regard to the processing of personal data and on the free movement of such data; (iv) all local laws or regulations implementing or supplementing the EU legislation mentioned in (i)-(iii) above; (v) all codes of practice and guidance issued by national regulators relating to the laws, regulations and EU legislation mentioned in (i)-(iv) above.
- "Data Processor" shall have the same meaning as defined in the GDPR;
- "Data Subject" shall have the same meaning as defined in the GDPR;
- "EU Law" means any law of the European Union, or any law of a member state of the European Union;
- "Losses" means losses, damages, liabilities, claims, demands, actions, penalties, fines, awards, costs and expenses (including reasonable legal and other professional expenses);
- "Processing and Processed" shall have the same meaning as defined in the GDPR;
- "Personal Data" shall have the same meaning as defined in the GDPR;
- "Personal Data Breach" shall have the same meaning as defined in the GDPR;



"Processing Records" shall have the meaning set out in clause [15].4(j);

15.1. Control of conflicts

- a. In the event that a provision of this clause 13 conflicts with any other provision of this Agreement, the provision in this clause shall prevail to the extent of such conflict.

15.2. Appointment of Elle Media Group Ltd as the Client's Data Processor

- a. The parties confirm that where Services comprise of Elle Media Group Ltd's processing of the Client Personal Data, Elle Media Group Ltd shall be the Data Processor and the Client shall be the Data Controller with respect to such processing.
- b. If, as a consequence of Elle Media Group Ltd's provision of Services, a party considers that the relationship between them no longer corresponds to the intention of the parties stated in clause 13.2(a) above then it shall notify the other party and the parties shall discuss and agree in good faith such steps that may be required to confirm the parties' intention.

15.3. General obligations of the parties

- a. Each party shall comply with the obligations imposed on it by applicable Data Privacy Laws with regard to the Client Personal Data processed by it in connection with Services.
- b. Each party shall ensure that where Services require the processing of the Client Personal Data, the insertion Order and/or Booking Form includes the following information:(i) The subject matter and duration of the processing;(ii) The nature and purpose of the processing;(iii) The nature and purpose of the processing;(iv) A description of the categories of the data subjects comprised within the Client Personal Data referred to in this clause.

15.4. Obligations of Elle Media Group Ltd

- a. Elle Media Group Ltd shall only process the Client Personal Data in accordance with the documented instructions of the Client, including transfers of the Client Personal Data outside the European Economic Area, unless required to do so by EU Law to which Elle Media Group Ltd is subject, in which event Elle Media Group Ltd shall inform the Client of such legal requirement unless prohibited from doing so by EU Law on important grounds of public interest.
- b. Elle Media Group Ltd shall immediately inform the Client if, in Elle Media Group Ltd's opinion, an instruction given by the Client to Elle Media Group Ltd under clause 13.4(a) infringes the Data Privacy Laws.
- c. Elle Media Group Ltd shall ensure that any persons authorised by it to process the Client Personal Data are subject to an obligation of confidentiality.
- d. Elle Media Group Ltd shall implement appropriate technical and organisational measures to ensure that the Client Personal Data is subject to a level of security appropriate to the risks arising from its processing by Elle Media Group Ltd or its sub-processors, taking into account the factors and measures stated in Article 32 of the GDPR.
- e. Elle Media Group Ltd shall notify the Client without undue delay after becoming aware of a Personal Data Breach.
- f. Taking into account the nature of the processing, Elle Media Group Ltd shall assist the Client by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Client's obligation to respond to requests for exercising a Data Subject's rights under the GDPR.
- g. Taking into account the nature of the processing and the information available to Elle Media Group Ltd, Elle Media Group Ltd shall assist the Client with regard to the Client's compliance with its obligations under the following Articles of the GDPR:(i) Article 32 (Security of Processing);(ii)Articles 33 and 34 (Notification and communication of a personal data breach);(iii)Article 35 (Data protection impact assessment); and (iv) Article 36 (Prior consultation by the Client with the supervisory authority)
- h. Upon termination of Services that required the processing of the Client Personal Data (in whole or in part) Elle Media Group Ltd shall, at the election of the Client, deliver up or destroy such the Client Personal Data which is in the possession of, or under the control of, Elle Media Group Ltd unless EU Law requires Elle Media Group Ltd to store such the Client Personal Data.
- i. Elle Media Group Ltd shall, at the request of the Client, provide the Client with all information necessary to demonstrate a party's compliance with its obligations under this clause 13 and shall allow for and contribute to audits and inspections conducted by or on behalf of the Client.
- j. Where required to do so by the GDPR, Elle Media Group Ltd and, where applicable, Elle Media Group Ltd's representative shall maintain written records of its processing of the Client Personal Data (the "Processing Records") as follows:(i)the name and contact details of: (1)Elle Media Group Ltd and its sub-processors;(2)the Client;(3)where applicable, the representatives of the Client, Elle Media

Group Ltd and its sub-processors, and Elle Media Group Ltd's data protection officer;(ii)the categories of processing carried out on behalf of the Client;(iii)transfers of the Client Personal Data to a third country or an international organisation and, where applicable, details of the suitable safeguards in place; and (iv)where possible, a general description of the technical and organisational security measures taken by Elle Media Group Ltd, its sub-processors and the Client.(v)Elle Media Group Ltd and its sub-processors and, where applicable, their representatives, shall make the Records available to a supervisory authority on request.

15.5. Obligations of the Client

- a. the Client shall ensure that: (i)the supply to Elle Media Group Ltd of the Client Personal Data by or on behalf of the Client for the purposes of processing undertaken by the Elle Media Group Ltd and its permitted sub-processors where such processing is authorised by the Client shall comply with the Data Privacy Laws; and (ii) the instructions given by the Client to Elle Media Group Ltd by operation of clause 13.4(a)shall comply with the Data Privacy Laws.

15.6. Costs of assistance

Where, by operation of clause 15.4, Elle Media Group Ltd is obliged to provide assistance to the Client, or to third parties at the request of the Client (including submission to an audit or inspection and/or the provision of information), such assistance shall be provided at the sole cost and expense of the Client, save where such assistance directly arises from Elle Media Group Ltd's breach of its obligations under this clause 15, in which event the costs of such assistance shall be borne by Elle Media Group Ltd.

15.7. Elle Media Group Ltd's appointment of sub-processors

- a. Notwithstanding any other provision of this Agreement, Elle Media Group Ltd shall be entitled to sub-contract any part of Services requiring the processing of the Client Personal Data, subject to the following conditions:(i) Elle Media Group Ltd shall conduct the necessary due diligence with any sub-processor ensuring that the processing of Client Personal Data is done so in line with GDPR legislation.

16. Law

These conditions and all other express and implied terms of the contract shall be governed and construed in accordance with the laws of England and the parties agree to submit to the jurisdiction of the courts of England and Wales.

17. Notices

All specifications and notices relied on by either party and all variations to this agreement must be in writing and include a duly authorised signature.

18. Consumers

Nothing in these Terms shall affect the rights of Consumers.

19. Severability

All clauses and sub-clauses of this Agreement are severable and if any clause or identifiable part thereof is held to be unenforceable by any court of competent jurisdiction then such enforceability shall not affect the enforceability of the remaining provisions or identifiable parts thereof in these Terms and Conditions.