

WILLIAM OVER PHOTOGRAPHIC (PVT) LTD

STANDARD TERMS AND CONDITIONS OF CONTRACT

1. PREAMBLE

- 1.1 These Standard Terms of Contract shall apply to sales and purchases whether or not expressly referred to in each Sales and/or Purchase Order, Contract or other document of purchase or delivery issued by the Company or the Customer.
- 1.2 These Standard Terms of Contract or parts thereof can only be varied where the Company has knowingly consented to in writing in terms of a specific offer, Contract term or quotation.
- 1.3 For purposes of this Agreement, "the Company" shall mean William Over Photographic (Pvt) Limited and/or all its Subsidiaries and/or Divisions.

2. GENERAL

- 2.1 All orders placed and/or accepted and all offers and/or quotations received or made by the Company, or any of its subsidiaries or divisions, are made and accepted upon the following terms and conditions.
- 2.2 Any order given to or placed by the Company, contract and/or quotation, shall be deemed to constitute an agreement to be bound by such terms and conditions.

3. QUOTATIONS/OFFERS:

- 3.1 Any offer or quotation given shall not be an offer by the Company to sell/source the goods, but constitutes an invitation by the Company to the Supplier/Customer to do business with the Company:
- 3.2 An offer or quotation may be revoked at any time by the Company and if the offer or quotation is not accepted by the Supplier/Customer within 24 hours from the date thereof and/or subject to the period reflected on the quotation, that offer or quotation shall be deemed to have been withdrawn.
- 3.3 The decision to revoke an offer or quotation shall remain at the exclusive discretion of the Company.
- 3.4 A contract shall only come into force once the Company accepts the order from the Customer, or an offer from the Supplier, in writing, by a properly authorized representative of the Company.

- 3.5 The Customer agrees and confirms that the Company's quotation/offer shall not constitute an order and that acceptance of the quotation/offer shall have to be provided by the Customer in order for the Company to finally accept same and conclude an official written contract with the Customer.
- 3.6 The offer or quotation is based on rates of exchange, freight charges, railage, cost of labour, material, import duties and other charges ruling at the date of the tender or quotation. Any variations subsequent to the date of the offer or quotation in any of the aforesaid rates or charges shall entitle the Company to vary the value of the offer or the amount of the quotation accordingly.
- 3.7 The Company shall not be held liable in any manner whatsoever for orders placed on behalf of the Company by persons not duly authorised/designated to act on behalf of the Company nor shall the Company be held liable in any manner whatsoever where orders are placed on behalf of the Company by persons acting fraudulently in using the Company name/s and/or stationery/logos and the like. The Company shall further not be held liable in any manner whatsoever for any deliveries made against such orders as described in this clause.

4. PRICE:

- 4.1 All offers/quotations are based on the freights, insurance, import duty, sales tax and exchange rates ruling on the date of offer /quotation, and in the event of any increase/decrease thereto, the Company shall be entitled to increase/decrease the contract price accordingly, at its exclusive and absolute discretion. Prices quoted are conditional upon acceptance of our offer in full and if any items are to be excluded, the allowance for the excluded work is to be at the Company's exclusive and absolute discretion.
- 4.2 It is specifically recorded that the Customer shall be liable for all costs which are incidental to the placing of the order or work to be done by the Company which costs shall include, but are not limited to, interbank costs and commissions charged by financial institutions in the payment of the price of the goods or work supplied by the Company.
- 4.3 Where the Company has no list price for the goods sold, any price mentioned is subject to a reasonable adjustment to take into account any increase in cost to the Seller by virtue of foreign exchange fluctuations, currency regulations, changes in duties or taxes ,increases in the cost of raw materials, labour or transport or any other causes beyond the control of the Company.

5. TERMS OF PAYMENT:

- 5.1 All payments due to the Company shall be paid at its offices by electronic transfer into the Company's bona fide bank account or by bill, draft or cheque payable to the Company and marked "Not Transferable", or by other mutually acceptable banking instrument. The Company reserves the right, amongst its other remedies either to terminate the agreement between the Parties or suspend further deliveries in the event that the Customer fails to pay for any goods when payment is due.
- 5.2 Furthermore, the Company shall not be held liable in any manner whatsoever for payments made by the Customer to any fraudulent bank accounts purporting to belong to the Company nor shall such payments discharge the liability of payment by the Customer to the Company. Accordingly, the Customer indemnifies the Company and all its representatives and employees from all claims that may arise as a result of payments made by the Customer into fraudulent bank accounts.

6. RESERVATION OF OWNERSHIP:

- 6.1 Notwithstanding delivery to the Customer, all goods sold by the Company shall remain the company's sole property until payment in full therefore has been made by the Customer.

7. RISK:

- 7.1 The risk passes to the Customer on delivery of goods sold by the Company to the Customer in Zimbabwe. Any claims for non-delivery, shortages or damage to the goods in Zimbabwe shall be made in writing by the Customer within seven (7) days after delivery, failing which the Company shall be excused from all liability in respect of such claims.
- 7.2 In terms of goods sold and are to be delivered outside the Zimbabwe, the risk passes to the customer based on the Incoterms 2000 as provided for by the Company in the offer or quotation and any claims for non-delivery, shortages or damage to the goods shall be made in writing by the customer within a period of fourteen (14) days from the time that the goods have cleared the customs of the country of destination, failing which the Company shall be excused from all liability in respect of such claims.

8. DELIVERY:

- 8.1 The signature of any employee of the Customer on any official delivery note, invoice, waybill of the Company or the similar paper of any authorised independent carrier

of the Company and/or custom release documents shall constitute good and sufficient proof of delivery of the goods to the Customer.

8.2 The Customer shall not refuse or delay delivery and the Customer shall be liable for all costs by its failure or refusal to take timely delivery of the goods from the Company. Unless contract terms specify otherwise, delivery shall be made to the Customer at the Company's premises.

Delivery shall be completed when the goods are handed to the Customer or its agent at the Company's premises and before loading commences. The offloading of goods at the delivery point is the responsibility of the Customer.

8.3 If the Customer arranges its own transporter to transport the goods, the Customer indemnifies the Company against any claims that may arise from such an agreement between the Customer and its own transporter.

8.4 The Company shall not be obliged to accept the return of any goods sold by it unless specifically agreed to in writing. If it agrees to accept the return of goods the Customer shall pay a handling charge and all transport costs including re-patriation costs for cross border reentry of goods and any VAT related issues for which the Company may be held liable.

9. INSURANCE:

9.1 The Company, where specifically required to do so, shall endeavour to effect any insurance that the Customer timely instructs the Company to obtain in writing. Such insurance obtained shall be subject to the exceptions and conditions as may be imposed by the insurance company or underwriter taking the risk.

9.2 Should any insurer dispute its liabilities in terms of any insurance policy covering the goods, the Customer shall have recourse against such insurer only and the Company shall not have any responsibility or liability in this regard. The Customer has the obligation to determine the conditions and suitability of any insurance arranged and such provide such documentation as shall be required upon the request of the Company.

9.3 The terms reflected in 9.1 and 9.2 above will be applicable in the absence of contract terms dealing with the Insurance aspect and/or Incoterms to that effect.

10. WARRANTIES IN RESPECT OF GOODS PROVIDED BY COMPANY TO CUSTOMER:

10.1 The Company makes no warranty, whether of merchantability, fitness or otherwise expressed or implied, concerning the product other than it shall be of the specifications stated. The Company shall make every effort to provide the goods for the purpose for which those goods are intended. However, due to the fact that the use of the goods are beyond the control of the Company, no guarantee or warranty can be provided by the Company. The Customer is cautioned to determine the

suitability of the sample of the goods or the goods supplied whichever is provided. All goods sold and samples of goods provided for testing are supplied at the sole risk of the Customer without any warranties expressed or implied. If however, any goods supplied by the Company on inspection and in the Company's opinion, prove to be defective, the Company shall, at its option either replace the goods or refund the purchase price paid. The Company shall have no liability whatsoever beyond such replacement or refund for any injury, loss or damage arising from any cause whatsoever. Claims not registered within 7 days of delivery will not be entertained.

11. EXCLUSION OF LIABILITY:

11.1 It is expressly agreed that the Company shall not be liable for any damage, loss, injury or expense of any sort of kind caused directly or indirectly to any person or property by any goods sold or delivered by the Company or arising from the use thereof, and all such liability, whether general, special, consequential or otherwise arising out of or due to any of the acts, omissions, negligence or willful default of the Company or its servants, whether on common law, by statute or otherwise and whether arising from any condition, representation or warranty (express or implied) relating to the goods sold or delivered is expressly excluded.

12. FORCE MAJEURE:

12.1 Deliveries or acceptance of the goods may be delayed or suspended by the Company or Customer in the event of an Act of God, war, riot, fire, explosion, accident, flood, sabotage or labour troubles, strike, lockout, or injunction any of which events prevent the manufacture, shipment or acceptance of a shipment of the goods or of a material upon which the manufacture of the product is dependent. If due to such event, the Company is unable to supply part or total demand for the goods or if the Customer, due to such event, is unable to accept part of or the total of the quantity of goods contracted for, the party affected shall be exempted to the extent that its obligations refer to a particular delivery affected by such event by giving prompt notice of such event to the other party. The corresponding Party shall be likewise exempted from its corresponding obligations, but the terms and conditions of this agreement shall otherwise remain unaffected.

13. PATENTS:

13.1 The Customer shall have no claim of whatsoever nature against the Company arising out of or flowing from any damages suffered by the Customer as a result of any patent or trade-mark relating to any of the goods sold being infringed, cancelled, breached or otherwise set aside or declared invalid.

14. RIGHT OF CANCELLATION:

- 14.1 The Company shall have the right to cancel any contract forthwith by written notice to the Customer/Supplier in the event that the Customer/Supplier is placed under provisional or final liquidation, judicial management or sequestration or commits any act of insolvency or ceases to carry on business. In addition the Company shall be entitled to claim any balance on the purchase price then due and to re-take possession of the goods without prejudice to any right the Company may have to damages. Any payments which have been made prior to termination shall be retained by the Company.
- 14.2 Further, any contract is subject to cancellation or to variation by reason of Force Majeure from any and every cause whatsoever beyond the Company's control.
- 14.3 Any order resulting from this offer will not be subject to cancellation or variation in whole or in part without the Company's consent in writing. In the event of the Company accepting cancellation of the order for any reason whatsoever, that acceptance will not prejudice the right of the Company to recover any damage which the Company may have suffered as a result thereof. Evaluation of such expenses or loss shall be in the sole and absolute discretion of the Company.

15. GENERAL:

- 15.1 Any relaxation of any of the provisions or terms of these Conditions of Contract shall not be binding unless recorded in writing and signed by the duly authorised representative of the Company.
- 15.2 The Company shall not be bound by an express or implied term, representation, warranty, promise or the like not recorded herein or expressly accepted by the Company in writing.
- 15.3 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement shall operate as an estoppel against the Company in respect of its rights under the Agreement nor shall it preclude the Company from exercising its rights strictly in accordance with this Agreement.
- 15.4 The terms and conditions as highlighted in this document shall remain binding on the successors and/or assigns of the Company and the Customer with the specific proviso that the Customer shall be able to assign without the prior written consent of the Company.
- 15.5 These terms and conditions and every contract in which they are incorporated, shall be governed by the Laws of Zimbabwe.
- 15.6 These terms and conditions shall be applicable to previous, present and future purchases made and/or transactions concluded between the Company and the Customer.

15.7 The Customer shall be liable for all costs incurred by the Company in the recovery of any amounts or the enforcement of any rights which it has in respect of the agreement between the parties, including collection commission and costs on an attorney and own client scale and costs of counsel on brief, whether incurred prior to or during the institution of legal proceedings or if judgement has been granted, in connection with the satisfaction or enforcement of such judgement.

TAKE NOTE:

These terms and conditions of contract of William Over Photographic (Pvt) Limited and its Subsidiaries and Divisions are applicable to all transactions unless excluded by terms and conditions in a contract entered into willingly by William Over Photographic (Pvt) Limited and/or its Subsidiaries or Divisions with a Customer/Supplier.