

## **IWCO - Terms and Conditions of Sale**

The sale of goods and/or services described on any invoice, estimate, quotation, or project proposal (each, a "Quotation") supplied by IWCO ("IWCO") to the customer identified therein ("Customer") is subject to the following terms and conditions ("Terms and Conditions"), which together with the Quotation collectively constitute the entire agreement ("Agreement") to buy and sell those goods and/or services. IWCO's sale of those goods and services is also subject to IWCO's credit approval of Customer. If there is a conflict between these Terms and Conditions and the terms and conditions on the Quotation, these Terms and Conditions will govern and control in all aspects. If the parties have executed a Master Services Agreement and/or a Statement of Work (each, a "Superseding Agreement") covering the sale of goods and/or services by IWCO to Customer, then the terms of the Superseding Agreement will supersede over these Terms and Conditions. Except as expressly set forth herein, if there is a conflict between these Terms and Conditions and the Superseding Agreement, the Superseding Agreement shall govern and control.

**1. Specifications and Terms.** The Quotation is based on the specifications and requirements stated therein. Subsequent orders and change orders may be subject to price changes. Any changes to the Agreement are not binding unless accepted by both parties in writing. Customer may issue a purchase order based on the Quotation for its internal purposes and convenience only. If there is a conflict between that purchase order and the Agreement, the Agreement will control.

**2. Subcontractors.** Unless the parties agree in the Quotation that third-party suppliers ("Subcontractors") may not be used, IWCO may use Subcontractors to perform the services or provide products or material support to IWCO in its provision of the services. IWCO shall act as principal in any use of Subcontractors, and IWCO will be the Customer's sole point of contact regarding the services, including with respect to payment. IWCO will remain responsible for all obligations, services, and functions performed by Subcontractors to the same extent as if such obligations, services, and functions were performed by IWCO's own employees. IWCO will not disclose Customer's Confidential Information (as defined below) to a Subcontractor unless that Subcontractor has agreed in writing to protect the confidentiality of that Confidential Information in a manner substantially similar to that required of IWCO under these Terms and Conditions.

**3. Cancellation.** In the event of cancellation after IWCO accepts Customer's order, Customer shall be subject to a cancellation fee and Customer shall be liable for all costs incurred by IWCO resulting from such cancellation that are not otherwise avoidable by IWCO through reasonable commercial efforts, including without limitation, costs associated with: (i) down press and bindery or lettershop time; (ii) materials ordered or inventoried on Customer's behalf; and (iii) any other related obligations.

**4. Productions Schedules; Delays.** Production schedules shall be established and followed by both IWCO and Customer; however, IWCO is not liable for any failure to meet a production schedule if that failure or any other delay is caused by any delay by Customer or any of Customer's third-party agents to furnish artwork or information, approve or disapprove work, provide materials, or otherwise perform any of its obligations in a satisfactory and timely manner. Customer acknowledges it may incur additional expenses resulting from any such delays. Further, IWCO is not liable for any delay caused by any shortage of labor, materials, supplies, delays by carriers, suppliers or other contractors, or a force majeure event, including but limited to, fire, flood, earthquake, elements of nature or God, public utility, internet, or electrical failure, pandemic, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, imposition of martial law, embargo, governmental action, or any similar cause that is beyond the reasonable control of IWCO. In such cases, schedules will be extended by an amount of time equal to the delay incurred. The prices in this Agreement are based upon Customer's full compliance with all schedules and other requirements of Customer, and any deviation from the agreed upon schedule by Customer may result in a revised delivery date or additional charges. IWCO may also suspend its performance until a revised schedule and/or pricing is approved by Customer in writing.

**5. Quantities.** Variations in quantity will not exceed ten (10) percent of the quantity ordered, unless specified otherwise in the Quotation. IWCO will invoice for the actual quantity delivered within this tolerance. If Customer requires a guaranteed quantity, the percentage of tolerance must be stated at the time of estimate. In the case of direct mail handling and processing, and storage or fulfillment services, IWCO is not responsible for normal spoilage of material that occurs naturally during such services. Allowances for spoilage should be taken into consideration when Customer orders material.

**6. Electronic Files.** IWCO shall use reasonable efforts to protect against the loss of Customer's electronic content and data files; however, it is Customer's responsibility to maintain a copy of all original files provided to IWCO. IWCO is not responsible for accidental damage to media supplied by Customer or for the accuracy of any materials, content, data, or information that Customer provides. Until agreed upon in writing, IWCO does not make any claim or promise about its ability to work with jobs submitted in digital formats, and IWCO does not assume any liability for problems that may arise therefrom. Any additional translating, editing, or programming needed to use Customer-supplied files will be charged to Customer at IWCO's then-current rates. Customer is solely responsible for the accuracy of data files provided by Customer. Any changes to such data files initiated by IWCO must be approved by Customer in writing before electronic data is used to prepare printed materials. IWCO is not responsible for errors that may occur on printed materials as a result of incorrect data either furnished by Customer or approved by Customer after editing.

**7. Proof Approvals.** Customer and IWCO will agree whether proofs are required (electronic or physical) as part of the order, including, as appropriate, prepress proofs, press proofs, and/or lettershop/bindery proofs. If proofs are required, Customer will sign copies of or otherwise approve in writing said proofs (or provide requests for corrections, if appropriate). IWCO is not required to perform additional work until Customer accepts the proofs presented for review and approval. IWCO will not be responsible for defects in printed and finished products after approval by Customer. IWCO will also not be responsible for defects in the printed and/or finished product if Customer does not require press proofs and/or finishing proofs. IWCO will not be liable for the costs of reprinting or mailing products previously approved by Customer.

**8. Storage and Ownership of Property.** If requested by Customer and agreed by IWCO, IWCO will provide storage of finished and semi-finished product and Customer-furnished paper, which storage will be charged to Customer at IWCO's then-current rates. Customer assumes all risks with respect to, and will carry adequate insurance on, all property furnished and/or owned by Customer while in storage on IWCO's premises. Customer hereby releases IWCO from any and all damages and liability, whether direct, consequential or incidental, resulting from any loss or damage to Customer's property in IWCO's possession, however caused, and neither Customer nor its insurer shall have any claim against IWCO for any loss or damage incurred.

If storage charges remain unpaid for ninety (90) days, IWCO shall have the right to demand that Customer remove the product/paper from IWCO's storage. If Customer fails to remove paper after twenty (20) days' notice, IWCO may sell the paper and remit the proceeds to Customer less storage costs and costs of sale. IWCO shall have the right to destroy Customer's product not removed after twenty (20) days' notice.

All other materials used by IWCO in producing the work, whether or not charged to Customer, are the property of IWCO.

**9. Risk of Loss.** Title and risk of loss and subsequent expenses, liability, and damages in respect to any or all of the materials described herein shall pass to Customer upon delivery of same to common or contract carrier or to the U.S. Postal Service mail unit, F.O.B. IWCO's or its Subcontractor's shipping dock, or upon mailing of the applicable invoice(s) for the finished work or its segments, whichever occurs first. All stock and materials belonging to Customer will be held and stored only at Customer's risk, and Customer shall be responsible for insurance on its materials.

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**10. Postage.** Unless specifically noted in the Quotation, estimates, quotes and proposals do not include postage. IWCO will notify Customer in writing of the required postage as soon as this amount is known and will notify Customer of the date when the postage is needed in order to complete the mailing prior to the agreed upon mailing date. IWCO is not responsible for additional postage charges if the rate of postage changes for reasons beyond IWCO's control. Payment of postage in advance is required on all orders and is the responsibility of Customer. IWCO reserves the right to hold mailings for which sufficient postage has not been paid or until postage payment has been verified. Customer will provide the postage payment in adequate time for IWCO to complete the mailing prior to the previously agreed upon mail date. Customer is liable for additional expenses incurred by IWCO and/or schedule delays resulting from Customer's failure to provide timely payment of postage.

**11. Taxes.** All taxes and assessments levied by any governmental authority are the responsibility of Customer and will be invoiced to the Customer. All amounts due for taxes and assessments will be added to Customer's invoice. No tax exemption will be granted unless official proof of the Customer's exemption is on file with IWCO or such documentation accompanies the order. If, after Customer has paid the invoice, it is determined that more tax is due, Customer must promptly remit the required taxes to the taxing authority or immediately reimburse IWCO for any additional taxes paid.

**12. Additional Charges.** The pricing contained in the Quotation is based on the cost of services, labor, energy, raw materials and freight as of the date of the quote, and is valid for thirty (30) days from the date the Quotation is submitted to Customer. IWCO reserves the right to adjust the fees and pricing identified for the products and services therein to reflect changes in the market price of materials and freight, reflecting the then-current market price at the time the services are performed. IWCO will use commercially reasonable efforts to mitigate any price increases and will promptly notify Customer of any such proposed pricing increases.

Additional costs incurred by IWCO due to Customer's failure to perform its obligations in a timely manner, including delays in delivery of Customer-supplied materials or approvals, or the unsuitability of materials furnished by Customer, are at Customer's sole risk and expense. Spoilage of Customer-supplied materials and work rendered unusable due to quality issues or shortages of materials furnished by Customer are at Customer's sole risk and expense.

**13. Payment Terms.** If approved for credit, Customer will pay all invoices Net 30 days from date of invoice. Customer will be assessed a finance charge of 1.5% per month or the highest rate allowed by applicable law on all amounts not paid within thirty (30) calendar days until paid in full. Customer will be liable to IWCO for all costs and expenses incurred by IWCO in the collection of amounts not paid by Customer within thirty (30) calendar days, including applicable attorneys' fees. Notwithstanding anything to the contrary herein, if Customer defaults in making any payment under this or any other agreement currently being performed by IWCO for Customer, IWCO may suspend performance of the services and/or withhold delivery of product or other materials until payment of such is made in full by Customer. IWCO shall not be liable for any damages, losses or liabilities that may arise out of IWCO's suspension of performance and/or withholding of product or other materials due to Customer's non-payment.

**14. Security Interest.** As security for payment of any and all monies due or to become due to IWCO from Customer, IWCO has the right to retain possession of, and Customer hereby grants to IWCO a security interest in, all Customer property in IWCO's possession, all work in process and in the final work.

**15. Warranty.** IWCO warrants its services are of commercially acceptable quality and the work conforms to the specifications of the Quotation. Acceptance of the Agreement by Customer renders void any statements concerning liability which may appear on any other contracts or correspondence from Customer. Claims for defects, damages, or non-conformance must be made by Customer in writing within ten (10) calendar days after delivery of the work or that date on which discovery thereof should reasonably have been made, whichever is later, and Customer hereby absolutely waives any and all claims not made within that period of time. Customer agrees no action for breach by IWCO of this warranty may be instituted more than sixty (60) days after date of delivery of the work. At IWCO's discretion, IWCO's sole liability for breach of this warranty is limited to either (a) the replacement of the portion of the work that does not meet the applicable specifications or (b) a credit for the cost of reproduction of the portion of the work that does not meet the applicable specifications.

THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WRITTEN OR ORAL, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. THE REMEDY PROVIDED IN THIS SECTION IS CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE OF IWCO TO CONFORM TO SAID WARRANTY. CUSTOMER HAS NO CLAIM AGAINST IWCO BASED ON CONTRACT, NEGLIGENCE, TORT, PRODUCT LIABILITY, TRADE PRACTICES OR OTHERWISE AND IN NO EVENT IS IWCO LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, INDIRECT, OR SPECIAL DAMAGES (INCLUDING LOST PROFITS OR LOST POSTAL DISCOUNTS, EVEN IF IWCO HAS BEEN ADVISED OF THE LIKELIHOOD OF THE OCCURRENCE OF SUCH.) IN NO EVENT SHALL IWCO'S LIABILITY FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, FOR CONTRACT DAMAGES, DAMAGES FOR INJURIES TO PERSONS, DAMAGES TO PROPERTY, WHETHER ARISING FROM BREACH OF CONTRACT, BREACH OF WARRANTY, INDEMNITY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT OR OTHERWISE, EXCEED THE AMOUNT OF FEES PAID BY CUSTOMER TO IWCO PURSUANT TO THE VALUE OF THAT PORTION OF WORK UNDER THIS AGREEMENT WHERE THE BREACH OR NEGLIGENCE OCCURRED.

**16. Indemnification.** Customer represents and warrants that neither the execution, delivery or performance, nor consummation of the transactions contemplated by this Agreement will result in actual or alleged infringement of any proprietary right (including, but not limited to, trademark, trade secret, patent or copyright rights), or any actual or alleged misuse of personally identifiable information, or violation of any other laws and regulations applicable, or a violation or breach of, or default under any provision of the charter, by-laws or any material agreement to which it is a party. At all times Customer's performance under this Agreement will be in compliance with any and all other rights arising from or in connection with the products or services produced by IWCO at the direction of Customer.

Customer agrees to indemnify and hold IWCO harmless from any and all losses, claims, and damages (including legal costs and reasonable attorney fees) that IWCO may suffer in connection with a claim related to any actual or alleged breach of the representations and warranties described above.

**17. Customer Marks.** To the extent the services require the use of Customer Marks, Customer grants to IWCO a non-exclusive, non-transferable license to use Customer Marks solely for the purposes of providing the services. "Customer Marks" shall mean the trademarks, service marks, trade names, insignia, symbols, logos, trade dress, decorative designs, or similar intellectual property owned or provided by Customer.

**18. Confidentiality.** The Agreement contains confidential and proprietary information and Customer and IWCO may have access to confidential and proprietary information of the other party including, without limitation, advertising and editorial content, methods of doing business, strategies, specifications, customer lists and other information, pricing, costs, and other financial and business information and data ("Confidential Information"). Each party agrees not to use the Confidential Information of the other party for any purpose whatsoever other than in connection with the services to be performed by IWCO and not to disclose or permit the disclosure of the Confidential Information of the other party to any other person who does not have a need to

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know in connection with the services to be performed by IWCO. Each party acknowledges and agrees the disclosure of Confidential Information may result in irreparable harm for which there is no adequate remedy at law. The parties therefore agree that the party disclosing Confidential Information may be entitled to seek an injunction in the event the party that received the Confidential Information violates or threatens to violate the provisions of this Section 18, and that no bond will be required. This remedy will be in addition to, and without limitation of, any other remedies available at law or equity.

**19. Additional Terms.** This Agreement may be amended, modified, or superseded, and the terms or covenants hereof may be waived, only by a written instrument executed by the parties hereto. No waiver or failure to exercise any option, right, or privilege under the terms of this Agreement on any occasion or occasions shall be construed to be a waiver of the same or any other option, right, or privilege on any other occasion. If any term, provision, or part of this Agreement is to any extent held invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall not be impaired or affected thereby, and each term, provision, and part shall continue in full force and effect, and shall be valid and enforceable to the fullest extent permitted by law. In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Customer, or in the event of the appointment, with or without Customer's consent, of a receiver, IWCO shall be entitled to elect to cancel any unfilled part of this Agreement without any liability whatsoever. Customer shall not assign this Agreement without the prior written consent of IWCO. The headings of the sections hereof are intended solely for means of reference and shall not modify, explain or place any construction on any of the provisions hereof. No remedy or election hereunder or at law or in equity of IWCO shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies hereunder or at law or in equity. This Agreement sets forth the entire agreement and understanding of the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements, and arrangements and understandings, written or oral, between the parties hereto. IWCO's failure to object to additional or different provisions contained in any purchase order or other communication from Customer, including without limitation, any online terms, click-through terms, confirmation, acknowledgement or waiver thereof by IWCO, shall not be construed as a waiver of these Terms and Conditions nor an acceptance of any such provisions, and notice of objection to said additional or different terms is hereby given, it being agreed that this provision shall serve as any notice of objection required under section 2-207(2)(c) of the Uniform Commercial Code. This Agreement shall be governed by and construed in accordance with the Laws of the State of Minnesota, excluding its conflict of laws principles. The parties irrevocably and unconditionally consent to venue in the State of Minnesota and waive any claims of forum non-conveniens with respect to such venue and to the exclusive jurisdiction of competent Minnesota state courts or federal courts in the District of Minnesota sitting in Hennepin County for all litigation which may be brought with respect to the terms of, and the transactions and relationships contemplated by, this Agreement. Each party waives its right to a jury trial in any court action arising among the parties under this Agreement or otherwise related to this Agreement, whether made by claim, counterclaim, third-party claim, or otherwise. The prevailing party in any such action or proceeding shall be entitled to recover from the non-prevailing party its reasonable attorneys' fees, costs and expenses.