

## Standard Terms and Conditions

As used herein, (a) "agreement" refers to these Standard Terms and Conditions together with the specifications contained in a price quotation which has been accepted in accordance with Section 2 hereof; (b) "we," "us" and similar pronouns refer to J.S. McCarthy Co., Inc., its subsidiaries and affiliates; (c) "work" refers to the products or services contemplated in a price quotation or otherwise provided by or on behalf of us; and (d) "you," "your" and similar pronouns refer to the individual or entity requesting work from us, and its affiliates and subsidiaries.

- 1. Quotations.** Price quotations are based upon our understanding of the job specifications you provide and are subject to change based upon changes to or clarification of such specifications. Any additional work we perform including repair of files, alterations, producing additional proofs, and other work not described in the quotation, might result in additional charges. Unless otherwise stated on the quotation, the pricing set forth in our quote is valid for 30 days from the date set forth on the quotation and thereafter is subject to change. Unless otherwise set forth in the quotation, all prices are quoted FOB our Augusta, Maine plant and do not include postage. Quotations do not include taxes and you are responsible for any taxes or other charges levied by any governmental authority unless we have received a copy of a valid tax exemption certificate.
- 2. Acceptance.** All work we perform is subject to these Standard Terms and Conditions and any conflicting or additional terms or conditions are expressly rejected. By signing our credit application, placing an order or requesting a quotation, you agree to be bound by these Standard Terms and Conditions. All orders placed by you pursuant to any purchase order or your acceptance of any price quotation do not constitute an effective order until accepted by us. Our acceptance may be by written notification to you or by commencing any portion of the work. Any cancellation will be subject to payment of all costs for work already performed, materials ordered, and other obligations incurred.
- 3. Payment Terms.** Unless otherwise stated on your invoice, payment terms are net 30 days from the date of the invoice. Payment terms are subject to change based upon a review of your credit which review may warrant advance payment or COD payment. Notwithstanding the foregoing, all postage must be paid for in advance. We do not accept credit card payments for postage. Any amounts unpaid after the due date are subject to reasonable and lawful interest and payment of all costs of collection including attorneys' fees. We reserve the right to suspend performance or withhold shipment if this payment provision, or any other term or conditions of this agreement, is breached or if, in our sole discretion, your credit is or becomes unsatisfactory. For work ordered by an intermediary such as a reseller, broker or agency, such intermediary shall be fully responsible for timely payment of the full amount due regardless of whether such intermediary has been paid by its customer for the work. As security for payment of any sum due under the terms of this agreement, we may hold and place a lien on all your property in our possession.
- 4. Proofing.** You are responsible for the accuracy of your print-ready artwork files and your approval of any proof (whether in electronic or paper form) indicates your agreement that the job is ready to be sent to press. Until we receive a written confirmation from you that a proof is "OK" or "OK with corrections," we will not proceed on any work and are not responsible for production delays caused thereby or by other factors in your control. We are not responsible for production errors resulting from (a) proofs not required by client, (b) work produced in accordance with a proof you approved as "OK" or "OK with corrections," or (c) requests for changes communicated orally. Because of differences in paper types, inks, equipment, processing and other conditions between color proofing and production pressroom operations, a reasonable variation in color between color proofs and the completed work shall constitute acceptable delivery.
- 5. Over and Under Runs.** Unless otherwise agreed in writing, over-runs and under-runs not to exceed ten percent (10%) of the quantity of work ordered shall constitute acceptable delivery. Our quote will reflect the actual quantity requested within this tolerance and, if you require an exact quantity, you must notify us of this at the time you request a quotation.
- 6. Storage and Fulfillment.** In the case that we do not ship all work to you upon completion of production or we retain ownership of customer-supplied paper, dies or similar materials, we may charge for storage at our standard rates. We are not responsible for normal spoilage of material or shrinkage that occurs naturally during fulfillment processing or storage.
- 7. Title.** Title to and risk of loss for the work passes to you upon our delivery to the carrier at our shipping dock or upon receipt of payment in full for the work, whichever occurs first.
- 8. Warranty.** We warrant that, on the date of delivery, the goods you purchase from us will conform with the technical specifications set forth in the agreement in all material respects. Your sole remedy for any breach of warranty claim shall be, in our sole discretion, either replacement of the non-conforming work or a refund for the affected portion of the work. WE MAKE NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED AND ALL OTHER WARRANTIES ARE EXPRESSLY DISCLAIMED INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- 9. Indemnification.** You represent and warrant that the subject matter to be printed (a) is not protected by any third-party copyrights or other intellectual property rights and that you have an unfettered right to reproduce such material and/or to allow us to perform the work, and (b) is not libelous, obscene or scandalous and does not invade anyone's right to privacy or other personal rights. You agree to indemnify us and hold us harmless for any claim, damage, law suit, litigation, expense, counsel fee or loss that may be incurred in connection with or arise out of the matters addressed in this Section or otherwise result from the handling, use, storage, disposal or application of the work covered hereby.
- 10. Claims.** Claims for defects or other nonconformities must be made in writing within 10 days of receipt of your work, otherwise all claims are deemed waived and you shall be deemed to have irrevocably accepted the work in agreement that it fully conforms with the terms of this agreement.
- 11. Intellectual Property.** We retain ownership of all intellectual property developed or utilized in connection with the work except that you retain ownership of the intellectual property you supply to us (excluding our modifications thereto). You acknowledge and agree that we use certain intellectual property, such as the "FSC" logos, as licensees and you agree that the use of such intellectual property is subject to the ultimate owner's terms, conditions and restrictions on use.
- 12. Customer Materials.** We are not responsible for the loss of or accidental damage to data, media or materials you supply (together, the "Materials"), including without limitation files, mailing lists, dies or paper, nor the accuracy of work we produce using the Materials. It is your responsibility to maintain the original of all Materials. Additional costs or delays incurred due to using your Materials are billable. Upon your written request, we will return your Materials at your cost upon completion of the work; provided, however, that if you do not request return of your Materials within a reasonable time following the completion of your work (not to exceed [6 months] from the completion of your work), we reserve the right to dispose of such Material without liability.
- 13. Our Materials.** Software, programs, artwork, files, dies, plates, dummies, layouts, preparatory work and all other inputs and materials used in the production process (other than those you supply, which are governed by Section [12] above), including any special purchases, regardless of whether you have incurred a charge for such items or such items are listed on the quotation, shall be and remain our sole and exclusive property. We reserve the right to dispose of or destroy such materials upon completion of the work.
- 14. Limitation of Liability.** Notwithstanding anything to the contrary stated in the agreement, our maximum liability, whether arising by negligence, contract, indemnity, strict liability or otherwise, is limited to an amount not to exceed the price of the portion of the work giving rise to the liability. In no event shall we be responsible for any indirect, incidental, consequential, punitive or exemplary damages.
- 15. Insurance.** We maintain fire and general liability insurance at levels consistent with those customary in the industry. Notwithstanding the foregoing, we are not responsible for loss of or damage to your Materials in our possession or the work after title has passed to you and you should insure accordingly.
- 16. Press Checks.** If requested prior to beginning production (subject to amendment to the quotation), press sheets can be submitted for your approval if you are on site at the production location during make-ready. Any delays or additional work associated with your absence during make-ready or alterations you make to the press sheet will be billable.
- 17. Confidentiality.** You may encounter information of a confidential nature while on site for plant tours or press checks. You agree not to disclose the identity of any client or the nature of their orders, or any proprietary information regarding our business or operations or those of our clients to anyone within or outside your organization without our prior written consent.
- 18. Force Majeure.** We have no liability to you, your customers or users for any failure to perform under this agreement to the extent caused by events beyond our control including without limitation any riot, natural disaster, delays in transit, accident, explosion, flood, fire, act of God, war, riot, terrorism or inability to obtain electricity, labor, raw materials or transportation.
- 19. Miscellaneous.** These Standard Terms and Conditions, together with the specifications set forth in the order placed by you and accepted by us, constitutes the entire agreement between the parties and may not be modified except by a writing signed by an authorized representative of each party. This agreement shall be governed by the laws of the State of Maine without regard to its conflicts of law principles. The venue for any suit arising hereunder shall be the courts in Kennebec County, Maine. The United Nations Convention for the International Sale of Goods shall not apply to the transaction represented hereby. Any waiver by us of one or more of the provisions of this agreement shall not constitute a waiver of future compliance nor constitute a release or waiver of any other terms and conditions hereof. We reserve the right to modify these Standard Terms and Conditions without notice to you. We may assign all or a portion of the work covered by this agreement; provided, however, that you shall not assign or transfer this agreement without our prior written consent. You agree not to use our name, logo or marks in any public communication or for any promotional purpose without our prior written consent. If any provision or application of this agreement is held unlawful or unenforceable, such illegality or unenforceability shall not affect the remainder of this agreement, which shall remain in full force and effect.