

BEST PRACTICES FOR THE PRINT INDUSTRY

Guidelines for Terms and Conditions of Sale

Perfect Image complies with Best Practices for the Print Industry
as proposed by the Printing Industries of America

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Alterations/Corrections

Prices estimated herein are based upon Perfect Image's written understanding of the client specifications submitted. Any changes to the original specifications of this agreement after project acceptance and submission will be billed as extra charges at Perfect Image's usual rates.

Recognizing both the frequency of change orders and press deadlines, Perfect Image's written change order sent to client shall amend the terms of the specific job it is pertinent to without the counter-signature of client, provided that client does not oppose the change order within 24 hours of receipt.

Assignment

Perfect Image may, in its sole discretion, assign this estimate and/or subcontract any and all of the work hereunder. This agreement shall be binding upon and shall inure to the benefit of the successors, and assigns of the client and the supplier, provided, however, that client may not assign or transfer this agreement, in whole or in part, except on the prior written consent of Perfect Image.

Brokers and Other Intermediaries

When contracting with an intermediary such as a broker, ad agency or reseller for work on behalf of their client, the intermediary is fully responsible for timely payment of invoices and for related collection costs, legal fees and interest. This will be done without regard to whether the intermediary has been paid by their client for services rendered.

Cancellation or Deviation

In the event of cancellation of or deviation from all or part of the work covered hereby, client shall give Perfect Image as much notice as reasonably practicable. Client shall be liable for all costs incurred by Perfect Image resulting from such cancellation or deviation that are not otherwise avoidable by Perfect Image through reasonable commercial efforts, including, without limitation, down press and bindery time, materials ordered (especially special-ordered stock) or inventoried on client's behalf and not otherwise usable by Perfect Image in the ordinary course of its business within a reasonable period of time at the scheduled plant of production, and related obligations.

Choice of Law and Venue

This agreement is made pursuant to and shall be governed by the laws of the state of Georgia, and client's consents to jurisdiction of the courts thereof.

Claims

Claims for defects, damages, or shortages must be made by the client in writing no later than 10 calendar days after delivery. If no claim is made within the specified time period, the supplier and the client will have mutually acknowledged that the job has been accepted by the client and that the supplier's performance has fully satisfied all terms, conditions and specifications of the purchase agreement.

Content and Refusal of Work

The client warrants that the work does not contain anything that is libelous, scandalous, or anything that threatens anyone's right to privacy or other personal or economic rights. Perfect Image, when not acting in an illegal discriminatory manner, reserves the right at his or her discretion to reject any job tendered based on illegal, libelous, scandalous, improper, or unsubstantiated content or based on copyright, trade mark, trade name or service mark infringement related to any elements of the job.

Copyrights

The client warrants that it has the right to produce the subject matter to be printed, duplicated or distributed. If the subject matter is copyrighted, the client warrants that it owns the copyright or has express permission of the owner to reproduce the copyrighted subject matter, and that it has not removed any copyright notice from any material to be reproduced without written permission.

Cost and Expense of Legal Action

The prevailing party in any legal action or proceeding brought to enforce this agreement shall be entitled to recover from the other, reasonable attorneys' fees, costs and expenses arising out of such legal action brought before a court, mediator, arbitration or private settlement.

Creative Work

Perfect Image may provide creative work in the form of creative briefs, ideas, concepts, demos, sketches, dummies, storyboards, comprehensive layouts, prototypes or by other means. Creative work may be communicated verbally, visually and/or electronically. This work is the sole property of Perfect Image and may not be used by the client in any form or derivation without Perfect Image's written permission or without client's payment of compensation as determined by Perfect Image. Client's rights to use such creative work shall further be limited to the original agreed-upon purpose and for any time limit specified unless otherwise agreed in writing.

Client-Furnished Materials

Materials: Materials furnished by clients or their representatives are verified by delivery tickets. Perfect Image bears no responsibility for discrepancies between client-verified delivery tickets and actual counts. Client-supplied paper must be delivered according to specifications furnished by Perfect Image. These specifications will include correct weight, thickness, and other technical requirements. Artwork, special dies, disks, electronic files or other materials furnished by the client must be usable by Perfect Image without alteration or repair. Items not meeting this requirement will be identified by Perfect Image and may be repaired by the client, or by Perfect Image at its current rates.

Damages/Limitation of Liability

Perfect Image's maximum liability, whether by negligence, agreement, or otherwise, will not exceed the amount specified in the agreement. Except for claims for delay arising out of this agreement, the parties to this agreement mutually agree that Perfect Image's liability for any and all claims whatsoever of any kind and nature arising out of this agreement shall not exceed Perfect Image's price to client for performing the work (including any services) that is the subject of this agreement or fraction affected, and further mutually agree that replacing the work (including any services) or re-mailing or re-shipping a correction or corrected job as soon as possible to rectify the mistake that is the subject of this agreement shall satisfy any and all claims whatsoever of any kind and nature arising out of this agreement.

Notwithstanding the foregoing, to the extent that material submitted by client does not conform to specifications, contains clerical or typographical errors, or otherwise does not strictly meet production deadlines as specified in this agreement, supplier shall have no liability for claims arising out of this agreement. Perfect Image clerical and typographical errors will be corrected with no additional charges. Under no circumstances will Perfect Image be liable for specific, incidental or consequential damages, including but not limited to lost profits and lost postal discounts, however proximate or foreseeable, arising out of the work, including any services, that is the subject of this agreement. Client agrees that the prices in this agreement for the work (including any services) that is the subject of this agreement are consideration for limiting Perfect Image's liability hereunder.

Delivery

Unless otherwise specified, the price quoted is for a single shipment, without storage, F.O.B. Perfect Image's platform. Proposals are based on continuous and uninterrupted delivery of the complete order. If the specifications state otherwise, Perfect Image will charge accordingly at current rates. Charges for delivery of materials and supplies from the client to Perfect Image, or from the client's representative to Perfect Image, are not included in proposals unless specified. Title for finished work passes to the client upon delivery to the carrier at shipping point, or upon mailing of invoices for the finished work or its segments, whichever occurs first.

Estimate (Project Proposal)

A Project Proposal not accepted in writing within 45 days may be changed. No discount will be allowed unless specifically set forth in the Project Proposal itself.

Proposals are based on Perfect Image's written understanding of client specifications and the accuracy of the specifications provided to Perfect Image by the client. Perfect Image has the option to re-estimate a project at the time of submission by client if project does not conform to the information on which the original estimate was based.

Project Proposals are based on the cost of services, labor and materials on the date of the estimate. If changes occur in cost of materials, labor, or other costs prior to acceptance, or if the client requires changes in specification, quantities, designs, or the production schedule subsequent to acceptance, or in the event of foreign or domestic legislation enacted by any level of government, including tax legislation, which increases the cost of producing, warehousing, or selling the goods or services purchased hereunder, Perfect Image reserves the right to change the price estimated. Subsequent orders will be subject to price revision if required.

Project Proposals do not include applicable taxes, shipping costs or deliveries unless specifically stated in the estimate.

If there is a change in specifications or instructions to the original Proposal and these changes result in additional costs, Perfect Image will inform the client, in writing, what these additional costs will be. The work performed will be billed at the current rates as agreed, and the completion date may be delayed.

Experimental and Preliminary Work

Experimental and preliminary work performed at client's request shall not be used without Perfect Image's written consent.

Express Warranties

Perfect Image warrants that the final work product will fully meet all of the requirements of the purchase agreement in all material respects as agreed to by Perfect Image and the client. Additionally, Perfect Image and the client mutually acknowledge that all preliminary work, including but not limited to sketches, copies, dummies, etc., are only intended to illustrate the general type and quality of the final work product, and are not intended nor are they required to meet fully all of the requirements of the purchase agreement as agreed to by Perfect Image and the client.

Finance Charge, Acceleration, Collection Cost, Suspension of Work, Liens

Unless otherwise specified or regulated, a finance charge of 1.5% percent per month (18% per annum) will be charged on all past due balances until paid.

Client shall execute financing statement(s) on request and irrevocably authorizes Perfect Image to execute and file same.

Perfect Image and client mutually agree that time is of the essence in this agreement, and if client defaults in the payment of any part hereof, the entire amount of the agreement shall immediately become due and payable without notice at the option of Perfect Image together with all costs of collection, including reasonable attorney's fees if collected by law or through an attorney.

In the event client defaults in making any payment under this or any other agreement currently being performed for client by Perfect Image, Perfect Image may suspend performance under this agreement.

As security for payment of any sum due under the terms of this agreement, Perfect Image has the right to hold and place a lien on all of the client's property in Perfect Image's possession.

Indemnification

Client 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, client'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 Perfect Image at the direction of the client.

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

Insurance, Risk of Loss

All stock and materials belonging to a client will be held and stored only at the client's risk, and the client shall be responsible for insurance on their material. Client retains title to and the insurable interest in its materials. Because of this, Perfect Image is held harmless for acts not of its doing that create losses.

All files, software, programs, paper, plates, overruns or other materials not supplied by client but used to perform the services hereunder shall remain the exclusive property of Perfect Image unless otherwise agreed in writing. Perfect Image shall carry insurance to protect against acts or negligence on the part of its employees in the normal course of business.

Moreover, Perfect Image will only maintain fire and extended coverage on property belonging to the client while the property is in the supplier's possession. The supplier's liability for this property will not exceed the amount recoverable from the insurance. Client shall bear all risk of loss to finished work upon delivery of the work by Perfect Image or its subcontractor, as applicable, to a common or contract carrier or to the U.S. Postal Service mail unit, F.O.B. Perfect Image's or its subcontractor's shipping dock. The risk of loss for property furnished and/or owned by client and for partially finished work before or after the manufacturing process and while in transit to or from Perfect Image's premises shall be borne by client. Title to finished and partially finished work shall pass at the same time the risk of loss for such work passes to client.

Integration

This agreement contains the entire agreement of the parties and no inducements, representations, promises, agreements, of understandings, oral or in writing between the parties, not embodied herein or subsequently made a part hereof by a properly executed addendum or amendment hereto as herein provided, shall be of any force or effect. No addendum to or amendment in the provisions of this agreement shall be effective or binding upon a party hereto unless embodied in a written instrument executed on behalf of such party by an authorized representative.

Mailing Lists

Client's mailing list(s) in Perfect Image's possession, for storage or otherwise, is the exclusive property of the client and shall be used only at the client's instructions. Perfect Image shall provide reasonable and prudent protection against the loss of a client's list, in much the same manner that the client would itself. This includes adequate backup procedures for all files and programs. Perfect Image shall provide reasonable and prudent security to protect the client's data from access by non-essential personnel while in the possession of the supplier.

Perfect Image shall pay for the cost of replacing such lists in the event of systems failure, loss by fire, vandalism, theft, or other such causes (excluding destruction of the list due to client's negligence or willful misconduct), provided that the client has a duplicate list or has the source material from which the list was compiled, and then only to the extent of the costs involved in replacing the lost list. Unless otherwise provided, Perfect Image shall not be liable for compiling such lists nor for an intangible or special value attached thereto.

Perfect Image is not responsible for the accuracy or integrity of lists or other data supplied by the client or a list broker. Unless otherwise specified in writing in advance, all rented mailing lists are provided on a one-time use basis. Perfect Image shall destroy all one-time use lists in accordance with the standard procedures for same.

Orders

Orders shall be effective upon written authorization by client via signed Project Proposal, Purchase Order or suitable written instrument, and written order acknowledgement by Perfect Image. Acceptance by Perfect Image may be either by notification to client or by commencing to produce work on the goods or services ordered. Acceptance of orders is subject to credit approval and other causes enumerated under Production Schedules. The work is to be performed according to specifications expressly set forth in the agreement and in any of Perfect Image's specifications relating to particular portions of the work, as provided to client. If the client furnishes its own paper for any work hereunder, the provisions of Perfect Image's furnished paper rider shall apply. If for any reason, other than solely Perfect Image's error, all or any part of the work must be redone, an additional charge will be made at current rates. An additional charge at current rates may also be made for work requested by the client that is different from or in addition to the work, as specified in the Project Proposal.

Outside Purchases

Unless otherwise agreed in writing, all outside purchases as requested or authorized by the client, are chargeable. Client is responsible for payment for any paper which Perfect Image has been authorized by the client to purchase, including paper remaining on hand as the result of client changing suppliers, discontinuing publication, or changing paper requirements. Perfect Image reserves the right to substitute comparable paper of a manufacturer different than that designated unless specified otherwise in the agreement.

Overruns, Underruns, Spoilage

Overruns or Underruns: Overruns and underruns will not exceed five (5) percent of the quantity ordered (the industry standard is 10%) unless specified otherwise in the agreement. Perfect Image will invoice for the actual quantity delivered within this tolerance. If the client requires a guaranteed quantity, the percentage of tolerance must be stated at the time the Project Proposal is accepted. In the case of a fulfillment agreement, Perfect Image is not responsible for normal spoilage of material that occurs naturally during processing.

Spoilage: All direct mail handling and processing involves spoilage. Spoilage of up to three (3) percent of client's material is typical. Allowances for spoilage should be taken into consideration in ordering material. Every effort will be made to handle client's material with frugality and to prevent undue spoilage. Nevertheless, Perfect Image cannot accept responsibility for shortages of material as a result of normal spoilage in processing.

Verified Quantities: Outside manufacturer delivery tickets must accompany the material delivered and should show the number of skids or cartons, the quantity per skid or carton and the total delivery quantity. Each incoming carton or skid must bear an identity, item code, quantity and a sample clearly visible. Each skid should have only one material version, unless clearly marked and separated. Multiple items should not be included within a single carton, skid or container unless noted thereon and on accompanying paperwork. Perfect Image will apply a surcharge for any rework necessary for materials received not meeting these specifications.

Counts: Perfect Image accepts outside manufacturers' count until processing and assumes no responsibility for shortages discovered at that time. Additional charges will apply if client requires Perfect Image to verify outside manufacturer's counts prior to processing. Client is expected to provide Perfect Image with sufficient inventory or adequate sources of supply to meet anticipated demand. Cost for backorders, delay notices, canceled orders and increased client service resulting from out of stock conditions will be billed additional to client.

Collect shipment will be accepted by Perfect Image only if clearance is obtained in advance, and a service charge will be added to the actual freight charges. Perfect Image is not responsible for the condition of shipped overs, unless client has been billed for packing and/or shipping.

Shrinkage: Three categories of shrinkage allowances are typical in the fulfillment industry:

(a) If Perfect Image is not authorized to perform counts of the literature or products received from client, nor is there independent verification, then no realistic shrinkage expectations can be developed and Perfect Image is not responsible for inventory shrinkage.

(b) If Perfect Image performs test counts, spot checks and weight counts, the industry standard for shrinkage is five (5) to ten (10) percent of the printed material received and two (2) to three (3) percent of products received.

(c) If Perfect Image has been paid to count/verify valuable items on receipt and maintain this material in a special secured environment, standard shrinkage allowances don't apply and Perfect Image is responsible for losses that could have been prevented by exercising reasonable and prudent care.

Any liability for losses that Perfect Image assumes is limited to the cost of the materials ONLY and does not include indirect or consequential claims, such as loss of sales or opportunity.

Payment

Unless otherwise specified in writing, payment for services shall be due upon receipt of product.

Postage

Project Proposals do not include postage. Perfect Image will notify the client in writing by delivery-confirmed e-mail of the required postage as soon as this amount is known and will notify the client of the date when the postage is needed in order to complete the mailing prior to the agreed upon mailing date. Postage funds are payable by check to the U.S. Postmaster. While Perfect Image will make every effort to provide the client with an accurate estimate of required postage, Perfect Image is not responsible for additional postage charges if the rate of postage changes for reasons beyond Perfect Image's control.

Payment of postage in advance is required on all orders and is the responsibility of the client. Perfect Image reserves the right to hold mailings for which sufficient postage has not been paid or until postage payment has been verified. The client will provide the postage payment in adequate time for Perfect Image to complete the mailing prior to the previously agreed upon mail date.

Prepress, Preparatory and Proofing

A color proof is used to simulate how the printed piece will look prior to production on the printing press (offset or digital). Due to differences between the proofing substrates, equipment and other conditions, the proof may present a 'reasonable' variation in color between the proof and printed piece. A 'reasonable' variation in color between color proofs and the completed job may be expected. When variations of this kind occur, it will be considered acceptable performance.

It is the client's responsibility to maintain a copy of the original data submitted to Perfect Image. Perfect Image is not responsible for accidental damage to material, data or media supplied by the client or for the accuracy of furnished input or final input. Until the client's data or media can be evaluated by Perfect Image, no claims or promises are made about Perfect Image's ability to work with the material submitted in digital format, and no liability is assumed for problems that may arise. Any additional translating, editing, or programming needed to utilize client-supplied files will be charged at prevailing rates.

All materials and data created by Perfect Image, including, but not limited to artwork, plates, dies, data, and digital output files, shall remain Perfect Image's exclusive property.

Perfect Image will submit prepress proofs along with original copy for the client's review and approval. Corrections will be communicated electronically or returned to the supplier on a 'master set' marked 'OK,' 'OK With Corrections,' or 'Revised Proof Required' and electronically authorized or signed by the client. Until the master set is received, no additional work will be performed. Perfect Image will not be responsible for undetected production errors if:

- Proofs are not required by the client
- The work is printed per the client's OK
- Requests for changes are communicated orally

When proofing color, a reasonable variation between color proofs or electronic renderings and the final product is to be expected. This is due to differences in viewing conditions, equipment, paper, inks, and toner between the color proofing process and print production.

Press proofs will not be furnished unless they have been requested by the client and presented in client's quotation. A press sheet can be submitted for the client's approval as long as the client is present at the press during make-ready. Any manufacturing time lost or alterations/corrections made because of the client's delay or change of mind will be chargeable at Perfect Image's current rates.

Production Schedules

Production schedules shall be established and followed by both the client and Perfect Image. There will be no Perfect Image liability or penalty for delays due to client delays, state of war, riot, civil disorder, fire, flood, terrorism, unavailability or shortages of materials, equipment failures, acts or defaults of the work of a subcontractor, delays in transportation, strikes, accidents, action of government or civil authority, acts of God, or other causes beyond the control of the supplier. In such cases, schedules will be extended by an amount of time equal to delay incurred.

The prices in this agreement are based upon full compliance with said schedule and any deviation from the agreed upon schedule on the part of the client may result in a revised delivery date or additional charges for downtime or overtime incurred by Perfect Image due to said deviation from the schedule. In any case, no additional work will be performed by the supplier until such revised schedule and/or pricing is approved by the client.

Shipping

All prices are for a single shipment, without storage, F.O.B. client's place of business within a 40-mile radius of Perfect Image's plant.

Storage, Overages

Intermediate Materials: Perfect Image will retain intermediate materials until the related end product has been accepted by the client. If requested by the client, intermediate materials will be stored for an additional period for additional charge. Perfect Image is not liable for any loss or damage to stored material beyond what is recoverable by Perfect Image's fire and extended insurance coverage.

Paper Storage: Only in the event that Perfect Image stores paper on behalf of the client, the following is agreed. Perfect Image will provide storage for the client's paper chargeable at Perfect Image's current rates and based on the quantity of paper on hand the first day of the month. If storage charges remain unpaid for 90 days, Perfect Image shall have the right to demand that client remove the paper from Perfect Image's storage. If client fails to remove the paper after 20 days' notice, Perfect Image may sell the paper and remit the proceeds to client less storage costs and costs of sale. Perfect Image shall also have the right to purchase the paper for its own account at market rates.

Material Storage: Only in the event that Perfect Image stores materials on behalf of the client, the following is agreed. Storage of finished goods, inserts, covers, cartons, and all other material will be free for up to 30 days prior to, and 30 days after, the originally scheduled print date. Finished goods and other material received earlier than 30 days prior to, or remaining in storage 30 days after the originally scheduled print date will be chargeable at supplier's current rates. Skids may not contain more than 2,000 pounds of material. If there is no activity, storage charge, or request by the customer for return of stored material for 3 months after the initial agreement storage period, Perfect Image has no liability if it chooses to dispose of, or destroy, the stored material.

Overages: The client must advise Perfect Image, in advance of the job, the disposition of overs. Overs may be returned to the client, stored or destroyed. If items are stored or returned, applicable storage and delivery charges will be added. Additionally, at Perfect Image's option and without liability to Perfect Image, material may be automatically destroyed after 60 days if client has failed to respond to a disposition request or failed to pay for storage starting 30 days after the mail date. Premium storage rates may be applied to old materials or materials for which disposition has not been designated.

Subsequent Work

To facilitate and expedite the parties' dealings on future printing jobs, it is agreed that the terms set forth in this agreement shall apply to all future printing jobs unless amended or contradicted in writing signed by both parties.

Taxes

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

Telecommunications

Unless otherwise agreed, the client will pay for all transmission charges. Perfect Image is not responsible for any errors, omissions, or extra costs resulting from faults in transmission.

Waiver

No waiver by either party of any default by the other in the performance of or compliance with any provision, condition, or requirement herein shall be deemed to be a waiver of, or any manner release such other party from compliance with any provision, condition, or requirement in the future, nor shall any delay or omission of either party to exercise any right hereunder in any manner impair the exercise of any such right accruing to it thereafter. Any matter arising under this Agreement that creates a right of action in either party against the other party, or the enforcement of any obligation or undertaking by one party against the other, shall survive any termination or expiration of this Agreement.