

# Jordan & Company International Ltd. Standard Trading Conditions.

## SECTION 1

**1. Introduction.** All and any business undertaken including any advice, information, supply of goods (including any instalment or part of them) and services (including any part of them) provided whether gratuitously or not by Jordan & Company International Ltd (hereinafter called 'the Company') is transacted subject to the conditions hereinafter set out. All other terms and conditions are hereby excluded. 'The Customer' shall mean the person, firm or company placing any order which is accepted by the Company. These conditions may only be waived if expressly stated in writing that these Standard Trading Conditions will be waived in whole or part and signed by a Director or the Secretary of the Company. Save as aforesaid no agent or employee of the Company has the Company's authority to waive or vary these conditions.

**2. The Company.** The company is a Mailing and Forwarding Agent and, except in the special circumstances to which Section II and III of these Conditions apply acts as agent in performing and securing services for the Customer and entering into contracts on the Customers behalf with other persons. Except in the special circumstances to which Section III of these Conditions apply the Company is not a carrier and does not make or purport to make any contract for the carriage of goods with the Customer. The Company is not a common carrier.

**3. The Company shall be entitled to enter into contracts**

(a) for the carriage of goods by any route or by any means;

(b) for the storage, packing or handling of the goods by any persons at any place or places and for any length of time;

and to do such acts as may be necessary or, incidental thereto at the absolute discretion of the Company it is necessary or desirable to do so in the Customers interests.

**4. The Customer expressly authorises the Company** to do such acts and enter into such contracts as referred to in Condition 3. On behalf of the Customer so as to bind the Customer by such acts and contracts in all respects, notwithstanding any departure from the Customer's instructions as aforesaid.

**5. The Customer warrants** that he is either the owner or the authorised agent of the owner of the goods (including any containers or equipment to which any business relates, and further warrants that he is authorised to accept and is accepting these Conditions not only for himself but also as agent for and on behalf of the owner of the goods and all other persons who are or may hereafter become interested in the goods (all such persons being hereinafter called 'the Owner').

**6. The Company shall be entitled to perform any of its obligations** hereunder by itself or by its parent, subsidiary or associated companies, or by any other persons, firm or company. Any contract to which these conditions apply is made by the Company on their own behalf, and also as agent for and on behalf of any such agent, subsidiary or associated company, and any such company shall be entitled to the benefit of these Conditions. The Customer will not seek to impose upon any such company a liability greater than that accepted by the Company.

**7. The Company shall not be obliged to make any declaration** for the purpose of any statute or convention or contract as to the nature or value of any goods or as to any special interest in delivery, unless expressly instructed by the Customer in writing.

Where there is a choice of rates according to the extent or degree of the liability assumed by carriers, warehousemen or others, goods will be forwarded, dealt with etc, at Customer's risk or other minimum charges and no declaration of values (where optional) will be made unless express instructions in writing to the contrary have previously been given by the Customer.

**8. Consolidation of Goods:** The Company shall not be obliged to arrange for the goods to be carried, stored, or handled separately from the goods of other Customers.

**9. Brokerage Payments:** The Company shall be entitled to retain and be paid all brokerages, commissions, allowances and other remuneration's customarily retained by or paid to Forwarding Agents and insurance brokers.

**10. Quotations:** A quotation is based on information available to the Company at the date of the quotation and is subject to the sight of materials and their suitability. Quotations are valid for a period of 30 days and are for the whole of the goods or services to which the quotation relates. The Company may extend the period for consideration of its quotation at its discretion and may refuse to accept any order for goods and services, which constitute only a part of the quotation unless the initial specification requested separate quotations for separate elements of the order. Unless otherwise agreed in writing the Company shall be after acceptance at liberty to revise quotations or charges with or without notice in the event of changes occurring in currency exchange rates, rate of freight, postage rates, insurance premiums or any charges applicable to the goods. Quotations given at a price per 1000 items will always be invoiced to the next 100 items i.e., 5120 items is charged at 5.2 1000's.

All orders must be in writing. No contract shall exist between the Company and the Customer where the Company rejects the order.

**11. Supply of materials:** The Customer warrants that the description and particulars of any consignments furnished by or on behalf of the Customer are accurate.

**11.1.1** The Customer shall be responsible for ensuring that the materials supplied by it or on its behalf:

a) conform to specifications in the quotation;

b) are supplied punctually;

c) are accompanied by a delivery advice note stating the quantity and description of the materials supplied;

d) are delivered on pallets, boxed, packed and supplied in such a way as to withstand normal transport, storage and handling;

e) in the case of any printing or reproductive work, are sufficient to enable the Company to deliver the correct quantity allowing for normal wastage and spoilage.

**11.1.2** The Company shall use its reasonable endeavours to provide the Customer with a reasonable estimate of the quantity of printing or reproductive work required.

**12. Checking materials:** The Company shall count the number of pallets containing materials supplied by or on behalf of the Customer against any delivery note and shall immediately report any discrepancy to the Customer. The Company shall not however be responsible for any loss arising from any errors or omissions in the goods supplied. The Company shall not be required to check the contents of pallets or packages supplied by or on behalf of the Customer.

## **Jordan & Company International Ltd. Standard Trading Conditions.**

**13. Data Protection:** The Company represents, warrants and undertakes to the Customer that it shall process any personal data (as defined in the Data Protection Act 1998) solely for the purposes of this contract and for no other purpose.

The Company represents, warrants and undertakes to the Customer that it has in place appropriate technical and organisational measures against accidental or unlawful destruction or loss of alteration to, unauthorised disclosure of or unauthorised access to any personal data.

The Company shall ensure that each of its employees are made aware of its obligations with regard to the security and protection of personal data and shall require that they enter into binding obligations reflecting the provisions of this clause.

Mailing lists provided by the Customer in the form of e-mail, disc, tape, CD or any other means are accepted by the Company as being correct and no responsibility or liability is accepted in respect of any errors or omissions arising therefrom. The Customer by the very act of providing such lists declaring that the information thereon is legally held by the Customer and provided and the Customer specifically absolves and indemnifies the Company from any liability in respect of same.

**14. Auditing of security measures:** The Company shall, when requested to do so by the Customer, submit its data processing facilities, data files and relevant documentation to auditing by the Customer and shall comply with all reasonable requests from the Customer to enable it to comply with any and all of its' obligations under the Act. Upon the completion or termination of the contract the Customer shall provide instructions for the return of personal data.

**15. Provision of computer data:** The Customer shall ensure that any computer data supplied to the Company is clean, unadulterated, capable of being read and processed and does not contain any computer viruses. In the event of the computer data supplied being corrupt, the Company shall either require the Customer to supply clean unadulterated data which does not contain any computer viruses or decontaminate the data itself but at the Customer's expense. If the Customer supplies computer data infected with a virus which subsequently damages the Company's computer software or hardware the Customer will accept liability and pay all expenses involved in repairing or replacing such software or hardware including any consequential loss. The Customer shall ensure that all data supplied to the Company are completely unambiguous with regard to their format. A specification of the formats of the data supplied and instructions for interpretation must be provided in writing.

**16. Intellectual property:** The intellectual property rights in any work created by or for the Company in relation to this contract shall vest in the Company unless it is agreed in writing that such intellectual property rights shall pass to the Customer.

**17. Insurance:** All materials supplied by or on behalf of the Customer are at the Customer's risk whilst on the Company's premises or in transit to or from such premises. No insurance will be effected except upon express instructions given in writing by the Customer and all insurances effected by the Company are subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk. The Company shall not be under any obligation to effect a separate insurance on each consignment but may declare it on any open or general policy. Should the insurers dispute their liability for any reason the insured shall have recourse against the insurers only and the Company shall not be under any responsibility or liability whatsoever in relation thereto notwithstanding that the premium upon the policy may not be at the same rate as that charged by the Company or paid to the Company by its Customer.

**18. Hazardous Goods:** Except under special arrangements previously made in writing the Company will not accept or deal with any noxious, dangerous, hazardous or inflammable or explosive goods or any goods likely to cause damage. Should any Customer nevertheless deliver any such goods to the Company or cause the Company to handle or deal with any such goods otherwise than under special arrangements previously made in writing, he shall be liable for all loss or damage whatsoever caused by or to or in connection with the goods however arising and shall indemnify the Company against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith and the goods may be destroyed or otherwise dealt with at the sole discretion of the Company or any other person in whose custody they may be at the relevant time. If such goods are accepted under arrangements previously made in writing, they may nevertheless be so destroyed or otherwise dealt with on account of risk to other goods, property, life or health. The expression 'goods likely to cause damage' includes goods likely to harbour or encourage vermin or other pests.

**19. Valuable Goods and Livestock:** Except under special arrangements previously made in writing the Company will not accept or deal with bullion, coins, precious stones, jewellery, valuables, antiques, pictures, livestock or plants. Should any Customer nevertheless deliver any such goods to the Company or cause the Company to handle or deal with any such goods otherwise than under special arrangements previously made in writing the Company shall be under no liability whatsoever for or in connection with the goods however caused.

**20. Storage of materials:** Any of the Customer's materials which remain in the Company's possession after 7 days from the completion of any order will be subject to storage charges. The Company reserves the right to destroy or dispose of all such materials at the Customer's cost not less than 14 days after written notice to that effect is given to the Customer. Further the Company shall be entitled at the expense of the Customer to sell or dispose of

20.1.1 in 21 days notice in writing to the Customer, or where the customer cannot be traced, after the goods have been held for 90 days all goods which in the opinion of the Company cannot be delivered either because they are insufficiently or incorrectly addressed or because they are not collected or accepted by the consignee or for any reason, and

20.1.2 without notice perishable goods which are not taken up immediately on arrival or which are insufficiently or incorrectly addressed or marked or which in the opinion of the Company would be likely to perish in the course of the carriage, storage or handling

**21. Lien:** The Company shall have a general lien on all goods or documents relating to goods in its possession for all sums due at any time from the Customer or Owner, and shall be entitled to sell or dispose of such goods or documents at the expense of the Customer and apply the proceeds in or towards the payment of such sums on 14 days notice in writing to the Customer.

### **22. Collection of Charges:**

(i) When goods are accepted or dealt with upon instructions to collect freight, duties, charges or other expenses from the consignee or any other person the Customer shall remain responsible for the same if the Company is not paid by such consignee or other person immediately when due.

(ii) Without prejudice to Condition 5 the Company shall have the right to enforce any liability of the Customer under these Conditions or to recover any sums to be paid by the Customer under these Conditions not only against or from the Customer but also if it thinks for against or from the sender and/or consignee and/or Owner.

(iii) All sums shall be paid to the Company in cash immediately when due without deduction and payment shall not be withheld or deferred on account of any claim, counterclaim or set-off.

## **Jordan & Company International Ltd. Standard Trading Conditions.**

**23. Charges and payment:** Invoices will be paid on completion of the contract and in any event at not less than monthly intervals within 30 days of the invoice date unless otherwise agreed. All prices quoted are strictly net and are exclusive of VAT, where applicable, which should be payable by the Customer.

The Customer shall also be charged for any preliminary printing work produced by the Company at the Customer's request whether experimentally or otherwise and any corrections made after the first proof and any other changes requested by the Customer on or after the first proof.

Where the Customer requests the use of the Company postage account for UK Bulk Postage the Company will levy an additional 5% of the said Postage for the use of this facility.

All orders placed with the Company shall at all times be conducted within any agreed credit facilities in force at the commencement of the said order. Where credit facilities are not in force or have been withdrawn, the Company reserves the right to request proforma payment with settlement prior to the commencement of any activities relating to the order. Any variation in projected and actual costs will be reflected in the final invoice after the job is completed. Where sums are outstanding in favour of the Company, payment of such sums will be immediately due from the Customer on receipt of the associated invoice.

Should the agreed credit facilities of the Customer be utilised for the benefit of any agent, person, connection or any separate legal entity permitted by the Customer and agreed by the Company, then in the event that the agent, person, connection or separate legal entity fails to settle any invoices relating to sums outstanding that have been incurred by these permitted third parties, then the Company reserves the right of recourse directly against the Customer, notwithstanding that the invoice is submitted in the name of the third party.

Conversely, should the agreed credit facilities of the Customer be utilised for the benefit of any agent, person, connection or any separate legal entity permitted by the Customer and agreed by the Company, then in the event that the Customer fails to settle any invoices relating to sums outstanding that have been incurred by these permitted third parties, then the Company reserves the right of recourse directly against the agent, person, connection or separate legal entity who placed the order, notwithstanding that the invoice is submitted in the name of the Customer.

**24. Interest on overdue bills:** The Company reserves the right to charge interest at the rate of 2% over the base lending rate of National Westminster Bank PLC per month or part thereof on any overdue sums from the date on which payment was due (which shall mean 30 days after the date of any invoice) to the date on which payment is received. The Customer hereby undertakes to pay to the Company on a full indemnity basis all costs and expenses incurred by the Company in collecting or attempting to collect any amounts unpaid to the Company after the due date including all court fees, costs and third party charges and commission.

**25. Codes of practice and indemnities:** The Customer shall: provide the Company with a true copy of all advertising material or other material intended to be enclosed with any material prepared by the Company; ensure that all information or materials provided by it complies with all applicable statutory requirements and with the codes of practice of the appropriate supervisory bodies including, but not limited to, the British Codes of Advertising and Sales Promotion (BCASP); and the Direct Marketing Association's Code of Practice; The Customer shall indemnify the Company against all costs, claims, liabilities, penalties and expenses which the Company may incur by reason of its' works being illegal, unlawful, infringing any copyright, trademark or other intellectual or other proprietary rights of any third party or is defamatory, obscene or the distribution of which may infringe postal or other regulations or which is in breach of any trade description or other legislation.

The Company shall have the right upon request from the body administering the Quality Standard in Mail Production (QMP) or any successor accreditation scheme, to supply that body with samples of any goods relating to the contract.

**26. Liability:** The Company does not exclude any claims for death or injury resulting from the Company's, its employees, agents or sub contractors negligence. The Company shall not be liable to the Customer or Owner,

(a) for loss or damage caused by any failure to carry out or negligence in carrying out the Customer's or Owner's instructions, or by any failure to perform or negligence in performing the Company's obligations (whether such obligations arise by contract or otherwise), unless such loss or damage is due to the wilful neglect or default of the Company or its own servants.

(b) for consequential loss or loss of market or delay or deviation however caused.

26.1.1. In no case whatsoever shall any liability of the Company, however arising, and notwithstanding that the cause of loss or damage be unexplained, exceed

(a) the contract price (excluding postage and telecommunication costs)

(b) the value of the relevant goods, or

(c) a sum at the rate of £800 per tonne of 1000 kilos on the gross weight of the goods, or

(d) £15,000 in respect of any one claim

whichever sum shall be the least.

**27. Consequential or indirect loss.** The Company shall not be liable for any indirect or consequential loss or damage, loss of profits or goodwill or loss of any kind, other than the direct loss suffered by the Customer and subject to limitation under 26.1.1.

**28. Notice of Claim:** Without prejudice to Condition 26, any claim by the Customer or Owner against the Company shall be made in writing and notified to the Company

(a) in the case of damage to the goods within 7 days after the end of the transit where the transit ends in the British Isles and within 14 days after the end of the transit where the transit ends outside the British Isles.

(b) in the case of delay in delivery or non-delivery within 14 days of the date when the goods should have been delivered, and

(c) in any other case within 14 days of the event giving rise to the claim.

Any claim not made and notified as aforesaid shall be deemed to be waived and absolutely barred.

**29.** No claim of any kind shall be made against any servant or agent of the Company on any ground whatsoever. No claim of any kind shall be made against any parent, subsidiary or associated Company of the Company, or against any forwarding agent employed by the Company in pursuance of Condition 6, or against any of their respective servants or agents on any ground whatsoever.

## **Jordan & Company International Ltd. Standard Trading Conditions.**

The Customer shall indemnify the Company against all duties, taxes, payments, fines, expenses, losses, damages (including physical damage) and liabilities, whether or not arising out of the negligence of the Company, their servants or agents, suffered or incurred by the Company in the performance of their obligations under any contract to which these conditions apply, including any liability to indemnify any other person against Claims made against such other persons by the Customer or by the Owner.

**30. Force Majeure:** The Company shall be under no liability if it shall be unable to carry out any of the provisions of the contract for any reason beyond its control including (without limiting the foregoing) Act of God; legislation; war; fire; flood; drought; failure of power supply; lock out; strikes or other action in contemplation of the furtherance of a dispute. During the continuance of a situation of 'Force Majeure' the Customer may by written notice to the Company terminate the contract and pay for all work done and materials used, but subject to this shall otherwise accept delivery when available.

**31. Termination and cancellation:** In the event of breach of contract by either party or upon the bankruptcy, liquidation etc of the Customer, either party shall be entitled to terminate this contract by notice in writing to the other in the event of any material breach by the other party of any of its obligations under this contract. The termination will take effect (14) days after receipt of written notice unless the defaulting party has remedied the default within this time. The Company shall be entitled to terminate this contract by notice in writing in the event of the Customer's failure to pay in accordance with the terms of the contract or in the event of the Customer committing an act of bankruptcy or taking any steps leading to liquidation, making any agreement with its creditors or having a receiver or administrative receiver appointed over any of its assets. In the event of termination by the Company under this clause, the Customer shall immediately pay any outstanding sums due from it to the Company. Where the Customer cancels the contract it will pay to the Company a reasonable sum for any work carried out by it prior to such cancellation together with a reasonable profit on the uncompleted portion of the contract.

**32. Partnership and joint ventures:** Nothing in this contract shall be construed as to constitute either the Company or the Customer operating so as to create a partnership or joint venture of any kind between them.

**33. Enforceability:** No failure or delay by either the Company or the Customer in exercising any of their rights under this contract shall be deemed to be a waiver of those rights. No waiver by either of them of any breach of the contract by the other, shall be considered as a waiver of any subsequent breach of the same or any other provision.

**34. Severability:** Notwithstanding that any provisions of this contract may prove to be illegal or unenforceable the remaining provisions shall continue in full force and effect.

**35. Entire agreement:** These terms and conditions constitute the entire contract between the Company and the Customer with respect to the matters dealt with herein. No variation to this contract shall be valid or effective unless made in writing and signed by both of them.

### **SECTION II**

**36.** Where in any circumstances the Company acts as principal in entering into a contract with any other person for the carriage or handling of the goods, the Company is not itself a carrier for the purpose of the Carriage of Goods by Sea Act, 1971. The Carriage by Air Act, 1961. The Carriage by Air (Supplementary Provisions) Act, 1962. The Carriage of Goods by Road Act, 1965, or for any other purpose, nor does it make or purport to make any contract for the carriage or handling of any goods with the Customer. The Company's sole obligation is to procure contracts for the carriage or handling of goods by other persons.

**37.** Without prejudice to the exceptions and limitations contained herein, the Company shall be entitled to the benefit of all exceptions and limitations in favour of the carrier or other persons handling the goods (such other person together with the carrier being hereinafter called 'the Carrier'), contained in the Company's contract with the Carrier. The Customer will not seek to impose on the Carrier any liability greater than accepted by the Carrier under such contract.

**38.** The liberties contained in Condition 3 and its provisions, exceptions and limitations contained in Condition 1 and 5 to 35 shall apply to this Section of these Conditions.

### **SECTION III**

**39.** Notwithstanding the provisions of Sections I and II of these Conditions, the Company shall be entitled to perform all or part of the carriage, storage, packing or handling of the goods by themselves or by their subsidiary or associated companies. This Section of these Conditions shall apply to any such case, and also to any case where, notwithstanding Condition 36, the Company is deemed to be the Carrier or otherwise to be in possession of the goods. This Section of these Conditions shall apply only so long as and to the extent that the Company is or is deemed to be the Carrier or in possession of the goods as aforesaid and no further.

**40.** The Company shall be entitled

(a) to carry the goods by any route or by any means, and

(b) to store, pack or handle the goods at any place or places and for any length of time

and to do all such other acts as may be necessary or incidental thereto at the absolute discretion of the Company it is necessary or desirable to do so in the Customer's interest.

**41.** The Company shall not be liable to the Customer or Owner for loss of or damage to the goods resulting from:

(a) fire;

(b) any other cause, unless such loss or damage is proved to be due to wilful neglect or default of the Company or its servants.

**42.** Without prejudice to Condition 41, the liberties contained in Condition 3 and the provisions, exceptions and limitations contained in Conditions 1 and 5 to 35 shall apply to this Section of these Conditions.

**43.** Where the Company is or is deemed to be the Carrier under a contract subject to legislation compulsorily applicable thereto the Company shall be entitled to all the rights, immunities, exceptions and limitations conferred on the Carrier by virtue of such legislation, and these Conditions shall be void to the extent that they are inconsistent with such rights, immunities, exceptions and limitations, but no further.

**Jordan & Company International Ltd. Standard Trading Conditions.**

**SECTION IV**

44. Where in these Conditions any matter is to be determined in accordance with the opinion of the Company, the certificate of a Director or the Secretary of the Company for the time being shall be conclusive evidence as to any matter so certified.

45. These Conditions, any act or contract to which they apply shall be governed by English Law, and any dispute arising out of any such act or contract shall be within the exclusive jurisdiction of the English Courts.

JORDAN & COMPANY INTERNATIONAL LTD  
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