

## Terms and Conditions of Sale

**Terms of Sale** – M F Birch Ltd Trading as Birch Print, [www.birchprint.co.uk](http://www.birchprint.co.uk),  
[www.birchmrc.com](http://www.birchmrc.com), [www.birchmrc.co.uk](http://www.birchmrc.co.uk), [www.pitmanmrc.com](http://www.pitmanmrc.com)



This page (together with the documents referred to in it) sets out the terms and conditions on which we supply any of the products ("**Products**") listed on our website as listed above ("**our site**") to you. Please read these terms and conditions carefully before ordering any Products from our site – in particular, our limit of liability at paragraph 14 below. You understand that by ordering any of our Products, you agree to be bound by these terms and conditions.

Should you wish to print a copy of these terms and conditions for future reference, press ctrl + p to do so.

### 1. INFORMATION ABOUT US

Our site is operated by M F Birch Ltd Trading as Birch Print ("**we/us/our**"). We are registered in England and Wales under company number 01840436 and our registered office and our registered address is Heritage House, Cossall Industrial Estate, Ilkeston, Derbyshire DE7 5UD. Our VAT number is 385 2473 31.

### 2. YOUR STATUS

2.1 By placing an order through our site you warrant that:

2.1.1 you are legally capable of entering into binding contracts; and

2.1.2 you are at least 18 years old.

2.2 If you are placing an order through our site on behalf of a business, you warrant that you have the necessary authority from that business to place the order.

2.3 You agree only to provide a third party's personal information if they have given you express consent to use it in respect of the Products you have ordered.

2.4 Personal information is collected, processed and stored in accordance with our Privacy Policy, which you can find at [www.birchprint.co.uk/privacy-policy](http://www.birchprint.co.uk/privacy-policy)

### 3. HOW THE CONTRACT IS FORMED BETWEEN YOU AND US

3.1 Your order constitutes an offer to us to buy a Product or Products. All orders are subject to acceptance by us, and we will confirm such acceptance to you by electronic notification at the end of the ordering process (the "**Order Confirmation**"). We are unable to issue an Order Confirmation until such time as the ordering process is complete. The contract between us ("**Contract**") will only be formed when we send you the Order Confirmation. Once the Contract has been formed, the terms of the Contract cannot be varied without our prior written consent.

3.2 As all of the Products will be made to your specification or will be personalised by you, you will not have any right to cancel the supply of any of the Products once you have placed an order. If, however, an order is incorrectly placed, please contact us as soon as possible by telephone on 0115 9512468 or email at [solutions@birchprint.co.uk](mailto:solutions@birchprint.co.uk). If your order has not yet been submitted to print, we may (at our sole discretion) allow you to cancel the order and issue a refund to you to enable you to re-order the Products. However, if the order has been



birch print  
heritage house  
cossall industrial estate  
ilkeston  
DE7 5UD

t 0115 951 2468

e [info@birchprint.co.uk](mailto:info@birchprint.co.uk)

w [birchprint.co.uk](http://birchprint.co.uk)

company reg no: 1840436



submitted to print, we will be unable to issue such cancellation.

- 3.2 We take payment at the time that you place an order with us. If you are making payment to us by BACS in accordance with paragraph 12 below, the order will not be processed until the payment has cleared in full into our account. This will usually be 3-5 days from the date that you send the payment. You will then receive the Order Confirmation from us. Where a credit account has been agreed (subject to credit approval and available only on request – terms and conditions apply), your order will be processed subject to the terms of your credit account.

#### **4. USE OF OUR DESIGNS**

- 4.1 Our site and all intellectual property rights therein (including all text, imagery, template designs, trade names and logos) are owned by, or licensed to us. Subject to paragraph 4.2 below, you may use our site and the template designs for the purpose of creating Products and placing orders, but such use shall not transfer ownership of any part of our site or our intellectual property rights to you.

#### **5. MATERIAL AND INFORMATION PROVIDED BY YOU**

- 5.1 Whenever you make use of a feature that allows you to upload material to our site (“Your Material”) you must comply with the content standards set out in paragraphs 5.2 and 5.3 below (“Content Standards”). If Your Material does not comply with those Content Standards, you shall indemnify us for any losses, damages, claims and other expenses we may incur as a result of such breach.

- 5.2 Your Material must:

- 5.2.1 be accurate (where it states facts);
- 5.2.2 be genuinely held (where it states opinions); and

- 5.2.3 comply with the law applicable in England and Wales and in any country from which it is uploaded.

- 5.3 Your Material must not:

- 5.3.1 be defamatory of any person;
- 5.3.2 be obscene, offensive, hateful or inflammatory;
- 5.3.3 promote sexually explicit material;
- 5.3.4 promote violence;
- 5.3.5 promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
- 5.3.6 infringe any intellectual property rights of any third party. We have the right to disclose your identity to any third party claiming that any material uploaded by you to our site constitutes a violation of their intellectual property rights;
- 5.3.7 be likely to deceive any person;
- 5.3.8 breach any legal duty owed to a third party, such as a contractual duty or a duty of confidence;
- 5.3.9 promote any illegal activity;
- 5.3.10 be in contempt of court;
- 5.3.11 be threatening, abuse or invade another’s privacy, or cause annoyance, inconvenience or needless anxiety;
- 5.3.12 be likely to harass, upset, embarrass, alarm or annoy any other person;



- 5.3.13 impersonate any person, or misrepresent your identity or affiliation with any person;
  - 5.3.14 advocate, promote, incite any party to commit, or assist any unlawful or criminal act such as (by way of example only) copyright infringement or computer misuse; or
  - 5.3.15 contain a statement which you know or believe, or have reasonable grounds for believing, that members of the public to whom the statement is, or is to be, published are likely to understand as a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism.
- 5.4 We have the right to remove any of Your Material if, in our opinion, Your Material does not comply with the Content Standards. You will receive a full refund of any sums already paid for an order we do not fulfil.
- 5.5 In addition to complying with the Content Standards, you agree that all of Your Material uploaded by you onto our site will be done at your own risk. You must retain a copy of Your Material that you upload. We expressly exclude all liability for any uploaded Your Material which is lost or damaged during or after the uploading process.
- 5.6 Failure to follow our site's preparatory instructions for uploading Your Material may result in Products of poor quality. Please review these instructions carefully. We accept no responsibility for poor quality Products in those circumstances. You are further advised to review paragraph 6 below regarding Product approvals.
- 5.7 We may amend our Privacy Policy from time to time concerning our storage of Your Material and the amount of Your Material that may be uploaded to our site. You are therefore advised to review our Privacy Policy regularly. We may delete Your Material stored by us which is inactive for an extended period of time without reference to you – we will review such inactivity and decide whether to delete Your Material at our sole discretion. We may change our Privacy Policy at any time at our sole discretion and, where appropriate, we will notify you of this by e-mail. To the extent that we are permitted to do so by law, we may delete Your Material stored by us at any time.
- 5.8 Nothing in these terms and conditions shall transfer ownership of Your Material or any personalisation of our template designs to us or any third party. You will continue to own all of Your Material and any personalisation that you may create through our site.

## **6. APPROVALS**

- 6.1 Prior to producing the Products, we make an electronic proof of the Product available for your approval. You are responsible for approving these proofs. You accept that once you have approved the proof, the Products cannot be changed nor cancelled. We shall have no liability to you for any errors in the proof subsequently discovered by you.
- 6.2 Your statutory rights are not excluded, limited or otherwise affected by these terms and conditions.

## **7. AVAILABILITY AND DELIVERY**

- 7.1 Unless there are exceptional circumstances, your Products will be despatched for delivery in accordance with the delivery service chosen by you during the ordering process. We do not offer international delivery at this time, but we will update our site if we can offer this service in the future.



- 7.2 We use DPD to deliver all Products and these are sent on a Next Day Service excluding Inverness, Highlands, Northern Ireland, Isle of Man, Isle of Wight, Paisley and Aberdeen which will be delivered on a Two Day Service. The turnaround dates are estimates and cannot be guaranteed.
- 7.3 Working days are Monday to Friday, excluding UK Bank Holidays.
- 7.4 All Products will require a signature upon delivery. If anyone other than the intended recipient signs for the Product and the Product is subsequently not delivered to the intended recipient, we will incur no liability provided that the Product was delivered to the address provided by you as part of your order.
- 7.5 Delivery is complete once the Products have been unloaded at the address for delivery set out in your order and signed for.
- 7.6 Where delivery is delayed due to exceptional circumstances or a Force Majeure Event (please see paragraph 19 below), we will process the delivery as soon as we reasonably can and will keep you updated regarding this by email. We will have no liability to you in that circumstance.
- 7.8 Where delivery is not possible as a result of us being provided with the incorrect delivery address details, our delivery service will return the Products to us and we will hold these for 5 working days. We reserve the right to make an additional delivery charge for re-despatch of the Products to the correct delivery address. If you have not contacted us regarding re-despatch within 5 working days, we may recycle the Products at our sole discretion and you will need to place a new order with us if the Products are still required.

## **8. NON-DELIVERY**

- 8.1 You must notify us within 30 days of the date that the Products were dispatched of any failure on our part to deliver the Products in order that we can investigate the failure and take appropriate action. You should notify us by telephone at 0115 9512468 or email at [solutions@birchprint.co.uk](mailto:solutions@birchprint.co.uk). If you notify us after 30 days, paragraph 15.2 below shall apply.
- 8.2 The earliest date we can claim against DPD for non-delivery is 15 working days from the date of despatch. We cannot process a reprint or refund before this time.
- 8.3 Once you have notified us in accordance with paragraph 8.2, we will send you a form to complete and return to us. Once the form is received we will either redeliver Products (or re-printed Products) to you at no further cost or expense to you or offer a refund.

## **9. QUANTITIES**

- 9.1 All reasonable endeavours will be made to deliver the correct quantity of Products ordered by you. However, you acknowledge that variations in respect of quantities are inherent within the printing industry.



9.3 Our liability in respect of shortages are as follows:

<b>Quantities ordered ordered</b>	<b>No credit awarded</b>	<b>Refund calculated on a pro rata basis</b>	<b>Missing quantities replaced</b>
25-100	Shortage of up to 5%	Shortage of between 6% to 20% inclusive	Shortage of 21% and over
101-1000	Shortage of up to 5%	Shortage of between 6% to 7% inclusive	Shortage of 8% and over
1001-5000	Shortage of up to 3%	Shortage of between 4% to 7% inclusive	Shortage of 8% and over
5001&over	Shortage of up to 2%	Shortage of between 3% to 4% inclusive	Shortage of 5% and over

9.4 All refunds or re-prints shall be issued within 7 working days from the date of notification of an incorrect quantity.

9.5 All overs may be kept by you at no additional cost.

## 10. QUALITY

10.1 The images of Products and template designs on our site are for illustrative purposes only.

10.2 You accept that variations in colours are inherent within the printing process for files submitted. You also understand and accept that computer hardware set ups are such that we cannot guarantee that the Product colours will match those displayed on your computer screen during the ordering process.

10.3 We cannot be held responsible or liable for colour variance on an order that has been printed with us, regardless of when it was printed. However, if you are not happy with the Product that you have received, we may at our discretion offer a reprint or a refund. We are not liable to offer both. Please contact us by telephone or 0115 9512468 or email at [solutions@birchprint.co.uk](mailto:solutions@birchprint.co.uk) if you wish to discuss this further with us.

10.4 For a folded leaflet and/or booklet, our tolerance is 1.5mm from the fold line as marked on your proof.

10.5 Please be aware there is also a 0.5mm off centre tolerance for trimming on some Products - for business cards, for example, the tolerance on trimming is 1mm.

10.6 The packaging of your Products may vary from that shown on images on our site.

10.7 If you wish to add any additional finishing options, you can do so when completing your order process using our site. If the additional finishing options are at an additional cost, these will be set out on our site.

## 11. RISK AND TITLE

11.1 The Products will be at your risk from the time of delivery.

11.2 Ownership of the Products will pass to you on delivery.

## 12. PRICE AND PAYMENT

12.1 The price of any Products will be as quoted on our site from time to time, except in cases of obvious error. We sell a large number of Products through our site and it is always possible that, despite our



best efforts, some of the Products on our site may be incorrectly priced. If we discover an error in the price of the Products you have ordered we will contact you to inform you of this error and we will give you the option of continuing to purchase the Products at the correct price or cancelling your order. We will not process your order until we have your instructions. If we are unable to contact you using the contact details you provided during the order process, we will treat the order as cancelled and will notify you. If we mistakenly accept and process your order where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may cancel supply of the Products and refund you any sums you have paid.

- 12.2 Prices exclude delivery and VAT unless the Product is generally zero-rated for VAT (this will generally depend upon which Product you order from us). In this case, we will contact you if VAT becomes payable. If you do not wish to proceed with the order and pay VAT, you may cancel the order and we will issue a full refund to you.
- 12.3 Prices are liable to change at any time, but changes will not affect orders in respect of which we have already sent you an Order Confirmation.
- 12.4 You may pay for Products using PayPal, any debit or credit card or (if the order is over £100.00 exc. VAT) by BACS transfer.
- 12.5 If you have been quoted for a bespoke price please note this quote is subject to change after 30 days from the date specified on the quote

### 13. OUR REPLACEMENT POLICY

- 13.1 If you believe that a Product is defective, we may request that you return the product for our examination.
- 13.2 Our liability in respect of misprints are as follows;

<b>Quantities ordered</b>	<b>No credit awarded</b>	<b>Refund calculated on a pro rata basis</b>	<b>Defective Products replaced</b>
25-100	Misprints of up to 5%	Misprints of between 6% to 20% inclusive	Misprints of 21% and over
101-1000	Misprints of up to 5%	Misprints of between 6% to 7% inclusive	Misprints of 8% and over
1001-5000	Misprints of up to 3%	Misprints of between 4% to 7% inclusive	Misprints of 8% and over
5001&over	Misprints of up to 2%	Misprints of between 3% to 4% inclusive	Misprints of 5% and over

### 14. OUR LIABILITY

- 14.1 Subject to paragraph 14.2 below, our liability in connection with any Product purchased through our site is strictly limited to the purchase price of that Product (including delivery costs).
- 14.2 We do not exclude or limit in any way our liability:
  - 14.2.1 for death or personal injury caused by our negligence;
  - 14.2.2 under section 2(3) of the Consumer Protection Act 1987;
  - 14.2.3 for fraud or fraudulent misrepresentation; or
  - 14.2.4 for any matter for which it would be illegal for us to exclude, or attempt to exclude, our liability.
- 14.3 Whether caused by our negligence, breach of contract or breach of duty, we exclude all liability for:
  - 14.3.1 any direct loss of income or revenue, loss of business, loss of profits or contracts, loss of



anticipated savings, loss of data, waste of management or office time; or

14.3.2 any indirect or consequential loss or damage of any kind however arising, even if foreseeable.

14.4 Except as expressly stated in these terms and conditions, we do not give any representations, warranties or undertakings in relation to the Products. Any representation, condition or warranty which might be implied or incorporated into these terms and conditions by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Products are suitable for your purposes.

## 15. CLAIMS

15.1 Claims for damage, shortages or non-delivery must be advised by telephone at 0115 9512468 or email at [solutions@birchprint.co.uk](mailto:solutions@birchprint.co.uk) within 30 days from the date that the Products were despatched.

15.2 We shall not be liable in respect of any claim unless we are notified in accordance with paragraph 15.1 except where you demonstrate to our reasonable satisfaction that it was not possible to comply with this requirement and your claim was made by you as soon as reasonably possible thereafter.

## 16. WRITTEN COMMUNICATIONS

When using our site, you accept that communication with us will be by electronic means only. We will contact you by e-mail or provide you with information by posting notices on our site, in accordance with our Privacy Policy. For contractual purposes, you agree to this electronic means of communication and you acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing.

## 17. NOTICES

17.1 You must give notice to M F Birch Limited either at its registered office by registered post at your cost, or electronically using the messaging facility on our site. We may give notice to you at either the e-mail or postal address you provide to us when placing an order, or in the way specified in paragraph 16. Notice will be deemed received and properly served:

17.1.1 within 1 working day when given electronically; and

17.1.2 3 working days after the date of posting of any letter when served by post.

17.2 In proving the service of any notice, it will be sufficient to prove that such notice was properly addressed and sent.

## 18. TRANSFER OF RIGHTS AND OBLIGATIONS

18.1 The Contract is binding you and us and on our respective successors and assigns.

18.2 You may not transfer, assign, charge or otherwise dispose of a Contract, or any of your rights or obligations arising under it, without our prior written consent.

18.3 We may transfer, assign, charge, sub-contract or otherwise dispose of a Contract, or any of our rights or obligations arising under it, at any time during the term of the Contract.





## 19. EVENTS OUTSIDE OUR CONTROL

- 19.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under a Contract that is caused by events outside our reasonable control (“**Force Majeure Event**”).
- 19.2 A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:
- 19.2.1 Strikes, lock-outs or other industrial action;
  - 19.2.2 Civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
  - 19.2.3 Fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;
  - 19.2.4 Impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
  - 19.2.5 Impossibility of the use of public or private telecommunications networks; and
  - 19.2.6 The acts, decrees, legislation, regulations or restrictions of any government.
- 19.3 Our performance under any Contract is deemed to be suspended for the period that the Force Majeure Event continues, and we will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under the Contract may be performed despite the Force Majeure Event.

## 20. WAIVER

- 20.1 If we fail, at any time during the term of a Contract, to insist upon strict performance of any of your obligations under the Contract or any of these terms and conditions, or if we fail to exercise any of the rights or remedies to which we are entitled under the Contract, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations.
- 20.2 A waiver by us of any default shall not constitute a waiver of any subsequent default.
- 20.3 No waiver by us of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing in accordance with paragraph 17 above.

## 21. SEVERABILITY

If any of these terms and Conditions or any provisions of a Contract are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

## 22. ENTIRE AGREEMENT

- 22.1 These terms and conditions and any document expressly referred to in them represent the entire agreement between us in relation to the subject matter of any Contract and supersede any prior agreement, understanding or arrangement between us, whether oral or in writing.





22.2 We each acknowledge that, in entering into a Contract, neither of us has relied on any representation, undertaking or promise given by the other or be implied from anything said or written in negotiations between us prior to such Contract except as expressly stated in these terms and conditions.

22.3 Neither of us shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date of any Contract (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in these terms and conditions.

## **23. OUR RIGHT TO VARY THESE TERMS AND CONDITIONS**

23.1 We have the right to revise and amend these terms and conditions from time to time.

23.2 You will be subject to the policies and terms and conditions in force at the time that you order Products from us, unless any change to those policies or these terms and conditions is required to be made by law or governmental authority (in which case it will apply to orders previously placed by you), or if we notify you of the change to those policies or these terms and conditions before we send you the Order Confirmation (in which case we have the right to assume that you have accepted the change to the terms and conditions, unless you notify us to the contrary within seven working days of receipt by you of the Products).

## **24. THIRD PARTY RIGHTS**

The Contract is between you and us. No other person has any rights to enforce any of its terms.

## **25. LAW AND JURISDICTION**

Contracts for the purchase of Products through our site will be governed by the laws of England and Wales. Any dispute arising from, or related to, such Contracts shall be subject to the exclusive jurisdiction of the courts of England and Wales

## **26. CALL RECORDING**

At M F Birch Ltd Trading as Birch Print we want to ensure that all calls are dealt with in a consistently professional manner and, therefore, calls may be recorded for training, quality and monitoring purposes. You will also be advised of this at the start of each call that you may have with us. If you do not consent to such recording, please let us know and we will either remove the recording from our calls with you or we will contact you by other means.