

# Bang Printing

Prepared: Nov. 2005

## TERMS AND CONDITIONS

1. **Terms of Contract:** These Terms and Conditions are complete and exclusive statements of the terms and conditions of the contract between Customer and Bang Printing. No additional, different, or inconsistent terms in a purchase order or other document issued by Customer are applicable to this transaction unless agreed to in writing by authorized personnel of Bang Printing.
2. **Acknowledgment:** After Bang Printing has received a copy of the Quote signed by Customer or a Purchase Order from Customer, receipt of either of which will be presumed to indicate Customer's acceptance of the Quote and these Terms and Conditions, Bang Printing will immediately send Customer an Acknowledgment describing in detail the specifications for the project. Customer agrees that it will review that Acknowledgment for correctness of the specifications. If Customer does not notify Bang Printing within ten (10) days of the date of Acknowledgment of any errors in that Acknowledgment, Customer will be financially responsible for any work done pursuant to that Acknowledgment.
3. **Experimental Work:** Experimental or preliminary work performed at Customer's request and not included in the Quotation will be charged for at current rates and may not be used until Bang Printing has been reimbursed in full for the amount of the charges billed.
4. **Condition of Copy:** If the condition of copy submitted to Bang Printing differs from that which had been originally described and consequently quoted, Customer agrees that Bang Printing may adjust the Quotation accordingly. Customer agrees to be bound by such adjustments.
5. **Preparatory Materials:** Working electronic files, mechanical art, type, negatives, positives, flats, plates, and other items supplied by Bang Printing shall remain its exclusive property unless otherwise agreed in writing. All final printing plates made by Bang Printing for Customer's project are Bang Printing's property.
6. **Press Proofs:** Unless the provision of press proofs to Customer are specifically included in the Quotation, such provision is an additional item and will be charged for at current rates. An inspection sheet of any form can be submitted for Customer approval, at no charge, provided Customer is available at the press during the time of makeready. Lost press time due to Customer delay, or Customer changes and corrections, will be charged at current rates.
7. **Color Proofing:** Because of differences in equipment, processing, proofing substrates, paper, inks, pigments, and other conditions between color proofing and production pressroom operations, Customer will accept a reasonable variation in color between proofs and the completed job.

8. **Customer Furnished Materials:** Paper stock, inks, camera copy, film, color separations, and other Customer furnished material shall be manufactured, packed, and delivered to Bang Printing's specifications. Additional cost due to delays or impaired production caused by specification deficiencies in Customer furnished materials shall be charged to Customer. Materials delivered from Customer or Customer's suppliers are verified with the delivery ticket as to cartons, packages, or items only. The accuracy of quantities indicated on such tickets cannot be verified and Bang Printing cannot accept liability for shortage based on supplier's delivery tickets.
9. **Shipment:** Unless otherwise specified on the Quotation, the price quoted is for single shipment, without storage, F.O.B. Bang Printing offices, Brainerd, Minnesota. Bang Printing will select routing unless Customer requests special routing at its expense. Material or finished goods stored more than 5 days after completion of the work are subject to Bang Printing's standard storage charges. Title, possession, and risk of loss shall pass to Customer upon tender for delivery at the F.O.B. point stated in the Quotation.
10. **Overruns and Underruns:** Overruns and underruns not exceeding 10% of the quantity ordered shall constitute acceptable delivery. If Customer requires guaranteed exact quantities, the acceptable percentage overrun tolerance will be 20%. Customer agrees to pay for the actual quantity delivered within these tolerances.
11. **Inspection:** Customer shall inspect goods upon receipt and process any claims with the carrier. Customer shall notify Bang Printing in writing of all claims for patent defects, errors, or shortages within 15 days of receipt of goods. Failure to timely notify Bang Printing of such defects shall be deemed a waiver by Customer.
12. **Changes, Alterations and Cancellation:** Customer may not change, alter, or cancel this order, in whole or in part, after the acceptance of the Quotation, unless agreed to in writing by Bang Printing. All changes and/or alterations shall be priced at Bang Printing's then current prices. Customer shall also pay costs incurred prior to the change and/or alteration, costs resulting from the change and/or alteration, and any additional processing charges. The minimum charge for cancellation is 20% of the price plus costs incurred prior to cancellation. Orders for special make up items may be canceled, changed or altered by Customer only upon payment of all costs incurred by Bang Printing to the point it received written notice of the cancellation, change, or alteration and acts thereon.
13. **Warranty:** Bang Printing warrants that the goods will substantially conform to the description contained on the face of the Quotation or any amendment, change or alteration thereof. There are no other warranties, expressed or implied, including the implied warranty of merchantability or fitness for a particular purpose attaching to goods or services supplied by Bang Printing.
14. **Limitation of Liability:** Bang Printing's liability for breach of this warranty is limited, at its option, (i) to repairing or replacing the defective articles at no cost to Customer or (ii) crediting Customer for its variable unit cost paid to Bang Printing for defective articles. Variable unit cost means the price per book charged to the Customer for press operations. In no event will Bang Printing be liable for any indirect, special, consequential, punitive or exemplary damages for any matter arising under this contract, or for negligence.

15. **Delays:** Bang Printing shall not be responsible for failure or delay in performance if due to Act of God, war, governmental acts or regulations, fire, flood, embargo, quarantine, labor difficulties, accident, unusually severe weather, energy failure, equipment breakdown, delays of supplier or carriers, or other causes beyond Bang Printing's control. Bang Printing may in such event, and in its own discretion, reduce or cancel Customer's order upon written notice to Customer and/or perform such portion of the work as it is capable of performing. If the work is placed elsewhere, Bang Printing shall be entitled to resume the work as promptly as practicable.
16. **Indemnification:** Notwithstanding the Quotation and acceptance thereof by Customer, Bang Printing reserves the right to refuse to print or bind any material it believes is obscene, improper, unlawful or violative of anyone's rights. Notwithstanding Bang Printing's failure to exercise such rights, Customer shall indemnify and hold harmless Bang Printing from all loss and liability, including legal costs, attorney fees and damages, resulting from any claims, demands, actions or proceedings alleging that any printing violates a copyright or proprietary right, or contains obscene, libelous, or scandalous material, or invades a right of privacy or other personal right. Bang Printing shall promptly notify Customer of any such claim and Customer shall promptly defend the claim at its expense.
17. **General:** A. This Agreement between Customer and Bang Printing shall be deemed to have been made in Crow Wing County, Minnesota and shall be governed by Minnesota law. Any action against Bang Printing by Customer shall be brought in the Crow Wing District Court, State of Minnesota. Customer consents that such courts shall have personal jurisdiction over any such action. B. Stenographic and clerical errors in Quotation and/or Acknowledgment may be corrected without liability to Bang Printing. C. If any provision of these Terms and Conditions is found to be unenforceable by a court, the remaining provisions shall remain in full force and effect. D. Failure of Bang Printing at any time to exercise any right does not constitute a waiver of the right.