

The National Archives: Terms and conditions for the supply of reprographic services

1. Definitions and Interpretation

In these terms and conditions:

- 1.1. "Client" means the person to whom the Estimate is addressed;
- 1.2. "Conditions" means these Terms and Conditions for the supply of reprographic services by The National Archives;
- 1.3. "Estimate" means the attached note showing the estimated cost of TNA for providing the goods and/or services stated in the note;
- 1.4. "Originals" means all deeds, documents, papers, files, indices, drawings, plans, films, microfiche, discs and other items of any kind which are to be processed or dealt with in any way by The National Archives for the Client;
- 1.5. "Price" means the price for the Product and Services to be provided, as set out in the Estimate;
- 1.6. "Product" means any microfilm, microfiche, digital materials and other items of any kinds, including services, produced for or supplied to the Client by The National Archives;
- 1.7. "Services" means the services to be provided by The National Archives to the Client under the Conditions;
- 1.8. "TNA" means The National Archives;
- 1.9. the singular shall include the plural and vice versa; and
- 1.10. the headings in the Conditions shall not affect the construction of the Conditions

2. Formation of Contract and Payment

- 2.1. The Conditions shall apply to all contracts between TNA and the Client unless amended or excluded in writing.
- 2.2. The contract between TNA and the Client shall commence when the Client accepts the Estimate by paying part or all of the Price.
- 2.3. On acceptance of the Estimate by the Client, TNA will provide an invoice. Any unpaid part of the Price shall be payable by the Client within 30 days.
- 2.4. The Client shall pay any Value Added Tax due as specified on the Estimate in accordance with the current rules and regulations relating to the Value Added Tax.

3. Performance

- 3.1. Performance of the Services will begin on receipt by TNA of payment in cleared funds of part or all of the Price. TNA cannot complete performance of the Services until the full Price has been paid.
- 3.2. TNA warrants that the Services will be performed with reasonable skill, care and diligence in a good and workmanlike manner and that all of the TNA's employees, agents and sub-contractors engaged in fulfilling TNA's obligations will possess sufficient professional competency and experience to carry out the Services. Subject to Clause 3.3, TNA warrants that the Products shall be of

satisfactory quality. All other warranties which may be implied by law are excluded.

- 3.3. The Client is notified that the quality of the Original shall be the standard against which the quality of the Product shall be compared. TNA shall not be obliged to improve on the quality of the Original as part of the Services. TNA does not guarantee that the image in the Product shall be an exact replica of the Original.
- 3.4. TNA will complete the Services within a reasonable period of receipt of full payment of the Price by the Client.
- 3.5. TNA reserves the right to sub-contract the Services or any part thereof.

4. Variation of price

- 4.1. Subject to these Conditions the prices charged to the Client by TNA for the goods and/or services specified in the Estimate shall be the Price stated in the Estimate.
- 4.2. TNA may vary the Price charged to the Client to take account of any of the following matters:
 - 4.2.1. Changes in the prices charged to TNA for any third party supplier goods or services supplied to the Client or utilised in providing such supply;
 - 4.2.2. Any goods or services to the Client other than those specified in the Estimate, including amendments or additions to the Product; and
 - 4.2.3. The state or condition of the Originals when received by TNA.

5. Insurance risk and liability

- 5.1. The Originals shall be at the Client's risk at all times. TNA recommends that the Client ensures adequate insurance cover for the Originals is maintained at all times.
- 5.2. It shall be the Client's responsibility to arrange transport of the Originals to TNA.
- 5.3. TNA will provide secure and environmentally controlled storage conditions for the Originals.
- 5.4. If TNA retains the Originals in storage following the performance of the Services, whether at the Client's request or otherwise, TNA may make a reasonable charge to the Client for such storage.
- 5.5. TNA shall not be liable for loss or damage suffered by any person resulting from loss of or damage to the originals or from any inaccuracy in or omission from the Product unless the same resulted from the negligent act or omission of TNA or its employees.

6. Intellectual property rights

- 6.1. The Client warrants that it has obtained all permissions necessary in relation to the Originals and that TNA's performance of the Services will not infringe the intellectual property rights of any third party.

6.2. The Client will indemnify TNA against any claim alleging that TNA's performance of the services infringes the intellectual property rights of a third party. TNA shall notify the Client promptly on becoming aware of any such claim.

7. Liability

7.1. Subject to clauses 7.2 and 1.1, TNA shall not be liable to the Client for any of the following types of loss or damage arising under or in relation to this agreement:-

7.1.1. any loss of profits, business, contracts, anticipated savings, goodwill, or revenue, any loss or corruption of data; or

7.1.2. any indirect or consequential loss or damage whatsoever, even if TNA was advised in advance of the possibility of such loss or damage.

7.2. Nothing in clause 7.1 shall exclude or limit TNA's liability for:

7.2.1. fraudulent misrepresentation; or

7.2.2. any other liability which by law it cannot exclude.

7.3. notwithstanding that any loss or damage the Client may be seeking to recover is of the type referred to in clause 7.1 TNA's total liability to the Client pursuant to the contract between TNA and the Client whether arising in contract, tort (including negligence), equity or otherwise shall not exceed the amount of the charges payable by the Client under the Estimate or any revised price advised to the client under Clause 4.2.

8. Effect of termination

8.1. The contract between TNA and the Client will continue until the Services have been completed or fully paid for, whichever is the later, unless either party gives reasonable notice of termination to the other.

8.2. If the contract is terminated by:

8.2.1. the Client then the Client shall pay TNA all charges due up to the date of termination;

8.2.2. TNA then TNA shall refund to the Client that part of the Price paid in advance for any Product and/or Services no longer to be provided as a result of such termination.

9. General

9.1. Force Majeure: TNA shall not be liable for any delay in performing the Services if such delay is caused by circumstances beyond the reasonable control of TNA.

9.2. Severability: notwithstanding that the whole or any part of any provision of this Agreement may prove to be illegal or unenforceable, the other provisions and the remainder of the provision in question will remain in full force and effect.

9.3. Governing Law: these Terms shall be subject to English law and all disputes arising under these Terms shall be subject to the exclusive jurisdiction of the English courts.