

TERMS AND CONDITIONS (EVENTS)

1. INTERPRETATION

- 1.1. **“Communication”** means any communication between Ark Industries and a Customer, whether by post, personal delivery, through the use of Ark Industries’ website or by any electronic means (which expression includes, fax, email, instant messaging or any other electronic means of communication).
- 1.2. **“Customer”** means the person, firm or organisation who engages Ark Industries to provide the Machinery and Services pursuant to an Event Agreement.
- 1.3. **“Customer Submissions”** means the items which are required to be submitted by the Customer in order to enable Ark Industries to execute or fulfil an Event Agreement.
- 1.4. **“Event”** means any planned occasion during which Ark Industries agrees, pursuant to an Event Agreement, to make available to the Customer (at an agreed Event location) the Machinery and the Services.
- 1.5. **“Force Majeure Event”** means an event which:
 - (a) is not existence as at the commencement date of an Event Agreement;
 - (b) is unforeseeable;
 - (c) is beyond the reasonable control of the Ark Industries (whether to prevent, avoid or remove the same); and
 - (d) which prevents, in whole or in significant/material part, the performance by the Ark Industries of its contractual obligations under an Event Agreement, or which renders the performance of such obligations illegal, dangerous or unsafe, or so difficult or costly as to make such performance commercially unreasonable.
- 1.6. **“Term”** means the period (as stated in the Quotation) during which Ark Industries will provide the Machinery and the Services for the Event.
- 1.7. **“Machinery”** means the equipment/machinery (including but not limited to embroidery machine(s), heat press machine(s), computer(s), tablet(s), and display units) deployed or otherwise provided by Ark Industries for use at the Event location (and solely for the purpose of the Event) pursuant to a Quotation in connection with an Event .
- 1.8. **“Material Acquisitions”** means any third-party products or services (including but not limited to stock images and photography) which are procured or acquired by Ark Industries at the request or approval of the Customer in connection with the fulfilment of an Event Agreement.
- 1.9. **“Out of Pocket Expenses”** means any expenses (including but not limited to travelling expenses) which are incurred by Ark Industries in the fulfilment of an Event Agreement.

- 1.10. **“Services”** means the services (including but not limited to live embroidery/printing services, any form of creation/personalisation services, event planning, event design, event management and event hosting services) supplied by Ark Industries at the Event location pursuant to a Quotation in connection with an Event.
- 1.11. **“Event Agreement”** means a contract entered into by Ark Industries and a Customer for and in connection with the conduct or participation of an Event upon the Customer’s acceptance of a Quotation issued by Ark Industries.
- 1.12. **“Quotation”** means a quotation issued by Ark Industries for the supply of Machinery and/or Services for the purpose of an Event and includes any other document(s) ancillary thereto or referred to in such Quotation.

2. SCOPE AND APPLICATION OF TERMS AND CONDITIONS

These Terms and Conditions shall govern the provision by Ark Industries’ of Machinery and/or Services for and in connection with an Event. These Terms and Conditions shall be deemed incorporated in their entirety in any Event Agreement and shall prevail over any other terms and conditions that may be specified by the Customer unless such terms and conditions are explicitly agreed to in writing by Ark Industries.

3. PRICES AND PRODUCT INFORMATION

- 3.1. All prices for Services are quoted in Singapore Dollars and are subject to prevailing GST (Goods and Services Tax).
- 3.2. Whilst Ark Industries endeavours to ensure that all information provided in any marketing material or on its website (including type of services, prices and availability) are correct and accurate, Ark Industries does not warrant or represent that all information so provided are accurate, complete or up-to-date and any such warranties are hereby disclaimed and excluded to the fullest extent permitted by any applicable laws.

4. ACCEPTANCE

- 4.1. Customers may accept a Quotation issued by Ark Industries by signing the same in the acceptance thereof and returning the signed Quotation to Ark Industries. Unless, otherwise specified in a Quotation, all Quotations rendered by Ark Industries are not firm and may, pending the Customer’s acceptance therefore, be made the subject of withdrawal or changes. The acceptance by a Customer of a Quotation shall be deemed in all respects to have been entered into upon these Terms and Conditions.
- 4.2. Upon Ark Industries’ receipt of a signed Quotation, a binding contract for the supply of any Services and Machinery forming the subject matter of such Quotation shall be deemed to be entered into by Ark Industries and the Customer.

5. CANCELLATION AND ALTERATION OF EVENT AGREEMENTS

- 5.1. Once entered into, an Event Agreement may not be cancelled or altered by the Customer without the written agreement of Ark Industries.
- 5.2. Ark Industries shall have the right to cancel an Event Agreement in the following circumstances:
 - 5.2.1. Where the Event Agreement is made on the basis of any error or mistake on the part of Ark Industries.
 - 5.2.2. Where Ark Industries is unable to procure the materials required to fulfilled the Event Agreement.
 - 5.2.3. Where Ark Industries is unable to fulfil any Event Agreement for any reason beyond its reasonable control.
 - 5.2.4. Where Ark Industries is unable to fulfil any Event Agreement for any reason due to acts and/or omissions on the part of the Customer including, without limitation, any failure, refusal or neglect on the part of the Customer to provide any information, Customer submissions, or approvals/confirmations required by Ark Industries such that the Event Agreement cannot be fulfilled either in a timely manner or at all.
 - 5.2.5. Where the Event Agreement is made on the basis of any error or mistake on the part of the Customer or where the Customer has provided any false, inaccurate, misleading and/or erroneous information to Ark Industries in relation to any Event Agreement.
 - 5.2.6. Where the Customer breaches any of its obligations under the Event Agreement, and (provided such breach is capable of remedy) fails to comply with the requirements and/or instructions of Ark Industries to remedy the same either in a timely manner or at all.
 - 5.2.7. Where the Customer fails to tender any payment (including but not limited to any price, advance payment or deposit) in accordance with the terms of an Event Agreement.
- 5.3. In the event that an Event Agreement is cancelled:
 - 5.3.1. In the case of cancellation made pursuant to Clause 5.2.1, 5.2.2, or 5.2.3, Ark Industries shall either:
 - (a) refund to the Customer any deposit or advance payment made in respect of the Event Agreement so cancelled; or
 - (b) issue a credit note to the Customer for the amount of any deposit or advance payment made to Ark Industries under the Event Agreement.

This shall be the Customer's sole and exclusive remedy in the event of a cancellation of an Event Agreement pursuant to Clause 5.2.1, 5.2.2, or 5.2.3.

5.3.2. In all other cases, the Customer shall be liable for (and Ark Industries shall accordingly be entitled to invoice the Customer for):

- (a) where work has not yet commenced in the fulfilment of an Event Agreement, a cancellation fee of **S\$2000** or **30%** of the total value of the Event Agreement whichever is higher, as liquidated damages to Ark Industries; or
- (b) where work has already commenced in the fulfilment of the Event Agreement but is not yet completed, a cancellation fee of 80% of the total value of the Event Agreement, or the total amount of the below mentioned items, whichever is higher, will apply.
 - (i) the cost of work or materials which have gone into the performance of the Services;
 - (ii) the cost of any Material Acquisitions;
 - (iii) the allocation of Machinery and manpower which have been reserved for the performance of the Event Agreement.
 - (iv) the reimbursement of any Out of Pocket Expenses; and
 - (v) such further or other damages and /or losses (including loss of profits) as may have been suffered or incurred by Ark Industries as a result of the cancellation; or
- (c) where work in the fulfilment of the Event Agreement has been completed, the full amount due in respect of the Event Agreement.

5.4. Should Ark Industries agree (in its sole discretion) to any Customer request to alter the terms or conditions of an Event Agreement (including but not limited to the dates, number of participants, reduction in services or any other agreed terms) , Ark Industries shall (unless otherwise agreed) be entitled to any losses or expenses that have been suffered or incurred by Ark Industries on account of such alteration (including in respect of the items specified in Clause 5.3.2(b)(i)to (v) above).

5.5. Ark Industries shall be entitled (but not obliged) to offset or otherwise deduct from any advance payment or deposit paid by the Customer such amount shall be sufficient to meet the payments due to Ark Industries pursuant to Clauses 5.3 and/or 5.4.

6. CUSTOMER SUBMISSIONS AND EXECUTION OF EVENT AGREEMENTS

6.1. Ark Industries will execute the Event Agreement after receiving:

- 6.1.1. the relevant Customer Submissions (which may include, without limitation, the submission of print-ready files of artwork or any materials to be used for the fulfilment of the Event Agreement); and/or
- 6.1.2. the Customer's approval/confirmation of proofs or artwork or samples produced by Ark Industries; and
- 6.1.3. the payment of any price, deposit or advance payment due from the Customer.

- 6.2. The Customer warrants that all artwork, information and materials supplied by the Customer to Ark Industries (whether by way of Customers Submission or otherwise) shall be free from error or defect, and that the use thereof by Ark Industries in the fulfilment of any Event Agreement shall not infringe any third-party rights or otherwise violate any applicable laws. The Customer shall defend, indemnify and hold Ark Industries harmless from and against any and all claims, actions, suits, demands, assessments, or judgements, and any and all losses, liabilities, damages, costs, and expenses (including, without limitation, legal fees, accounting fees, and investigation costs to the extent permitted by law), whether or not involving a third party claim, which may be asserted against or incurred by Ark Industries as a result of any breach by the Customer of any its warranties herein.
- 6.3. Without prejudice to Clause 6.2, Ark Industries shall have the right to refuse any artwork, information or materials submitted by the Customer which it determines (in its absolute discretion) to be unlawful, inappropriate or distasteful in nature, or to require the Customer to rectify any errors detected in any print-ready files of artwork, information or materials submitted to Ark Industries.
- 6.4. Ark Industries shall not be liable in any way to the Customer for any loss or damage to any Customer Submissions.
- 6.5. Ark Industries shall not be liable in any way to the Customer in the event of any delay on the part of Ark Industries in fulfilling an Event Agreement by reason of:
- 6.5.1. the late submission of any Customer submissions;
 - 6.5.2. any errors contained in any Customer submissions;
 - 6.5.3. the rejection by Ark Industries of any Customer Submissions pursuant to Clause 6.5.3;
 - 6.5.4. any changes which deviate from any samples or proofs of artwork previously approved/confirmed by the Customer;
 - 6.5.5. any changes to any Event Agreement; or
 - 6.5.6. any failure on the part of the Customer to provide Ark Industries in a timely manner with any confirmations, approvals, information and/or instructions requested by Ark Industries.
- 6.6. The Customer represents warrants and undertakes to Ark Industries as follows:
- 6.6.1. The Customer shall ensure that the Event location is suitable for and that all necessary or agreed arrangements are in place for the smooth and orderly conduct of the Event as contemplated under the Event Agreement.
 - 6.6.2. The Customer shall purchase or ensure that it is covered by public liability insurance against any potential third-party liabilities that it may incur during the Event.
 - 6.6.3. The Customer shall exercise all reasonable care and take all precautionary measures to prevent any loss of, damage to and/or unauthorised usage of the Machinery.
 - 6.6.4. Operation of the Machinery shall be undertaken solely by Ark Industries' employees and/or person(s) duly authorised by Ark Industries.
 - 6.6.5. The Customer shall not alter or modify the Machinery (or any part thereof) without Ark Industries' express consent or agreement in writing.

The Customer shall be liable to indemnify Ark Industries for any loss and/or damage which may be suffered or incurred by Ark Industries in the event of a breach of the above representations, warranties and undertakings.

7. PAYMENT

7.1. Unless otherwise agreed or specified by Ark Industries, the Customer shall make payment in settlement of Ark Industries' invoice for the Machinery and Services provided under an Event Agreement in full either by cash, cheque or bank transfer to Ark Industries' designated bank account (as specified by Ark Industries) failing which (and without prejudice to such of the further or other rights and remedies as may be available to Ark Industries in law or equity) the Customer shall be liable to pay to Ark Industries interest thereon at the **monthly rate of 1.5%** of the outstanding amount from the date such payment is due to the date on which such payment is received by Ark Industries (whether before or after judgment).

7.2. Ark Industries shall have the right to impose, and the customer shall be liable to pay, charges in addition to those stated in an Event Agreement in the following circumstances:

- 7.2.1. Where the price payable under an Event Agreement is based on the cost of any raw materials and/or any other underlying goods and/or services, and there has been an increase in the cost of such raw materials and/or underlying goods and/or services following the date of the Event Agreement.
- 7.2.2. Where the price payable under an Event Agreement is based on a stated quantity of products ordered, and there is a change to the quantity ordered which is less than that stated in the Event Agreement.
- 7.2.3. Where additional work has to be performed by Ark Industries on account of any errors or defects in any Customer Submissions.
- 7.2.4. Where changes are made to the specifications at the Customer's request (including alterations in the design, logo, fabric or any other changes which deviate from any artwork or material submitted by or previously approved/confirmed by the Customer).
- 7.2.5. On account of Material Acquisitions and/or Out of Pocket Expenses.
- 7.2.6. A flat fee of S\$500.00 will be imposed (on a return trip basis) for the transportation of any Machinery to and from an Event location. This fee is subject to revision by Ark Industries if the Event location is not accessible via lift and/or if the transportation of the Machinery is not possible via trolley.
- 7.2.7. On account of any post-event services (including but not limited to storage and courier services) rendered by Ark Industries.
- 7.2.8. On account of any other agreed payments.

8. RIGHTS IN INTELLECTUAL PROPERTY

- 8.1 All rights in and to any intellectual property subsisting in works of a creative nature (such as concepts and ideas, sketches, designs, artwork, samples etc.) developed and/or furnished by Ark Industries whether for the purposes of fulfilling an Event Agreement or otherwise shall belong solely to Ark Industries. The Customer shall not claim nor knowingly assist in any claim to any right, title or interest in and to any such intellectual property, or do or knowingly permit any act which is likely to prejudice the rights, title or interests of Ark Industries in and to any of such intellectual property.
- 8.2 Ark Industries shall have the right to take photographs and videos at any Event, and to publish such photographs and videos for promotional, advertising or marketing purposes. All intellectual property rights subsisting in such photographs and videos shall vest in Ark Industries.

9. EXCLUSION OF LIABILITY

- 9.1 Ark Industries shall not be liable in any way to a Customer for:
- 9.1.1 any indirect or consequential loss or damage;
 - 9.1.2 any loss of revenue, profits, goodwill, anticipated savings or opportunity; or
 - 9.1.3 any loss, damage or destruction of any Customer Submissions.
- 9.2 All merchandise which are supplied for use during the Event (whether by the Customer or Ark Industries) shall be used at the sole risk of the Customer. Ark Industries shall not be liable for the loss of or damage to any such merchandise.
- 9.3 Ark Industries does not warrant that all Machinery provided for use at the Event will be free of defects. In the event of the malfunction of any Machinery, Ark Industries' sole liability shall be to repair or replace such Machinery at its option. Save as aforesaid, Ark Industries will not be liable for any and all claims, actions, demands, assessments, or judgements, and any and all losses, liabilities, damages, costs, and expenses due to a malfunction of any Machinery.
- 9.4 Notwithstanding anything herein contained, and to the fullest extent permitted by law, Ark Industries shall not in any way be responsible or liable to the Customer or any person who may be permitted by the Customer to enter the Event Location and/or to participate in the Event, for accidents happening or injuries sustained at the Event (whether resulting in death or not) or for the loss of or damage to property, goods or chattels at the Event location, and the Customer shall keep Ark Industries harmless and fully indemnified against any claims arising from the same.

10. FORCE MAJEURE

Ark Industries shall not be responsible for any failure of or delay in the performance or discharge of its obligations under this Agreement if such failure or delay is caused by a Force Majeure Event. Without prejudice to Ark Industries' rights under Clause 5.2, all time periods for the performance by Ark Industries of all and any of its obligations under this Agreement or under any relevant Event Agreement shall be deemed extended by the same period (or number of days) during which the Force Majeure Event continues Provided Always that if the Force Majeure Event continues for a period exceeding 3 months, the Customer may at its option cancel the Event Agreement affected by the Force Majeure Event.

11. ENTIRE AGREEMENT

Each Event Agreement constitute the final and complete agreement between the Parties as to the subject matter of an Event Agreement and supersedes any prior agreement in respect thereof and/or any understanding, representation, commitment, undertaking or promise made by or between the Parties in the course of any discussions or negotiations concerning an Event Agreement.

12. GOVERNING LAW AND DISPUTE RESOLUTION

These Terms and Conditions shall be governed by the laws of Singapore and the Parties irrevocably agree that the courts of Republic of Singapore shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with an Event Agreement.