

The First Mailing Co Ltd

Standard Terms and Conditions of Sale and Supply

1. DEFINITIONS AND APPLICATION

1.1 In these Terms and Conditions:

“Customer” means any person, company or organisation purchasing Goods and/or Services from the Seller.

“Contract” means the agreement between the Customer and the Seller for the supply of Goods and/or Services incorporating these Terms and Conditions.

“Customer Materials” means any paper, envelopes, inserts, packaging, printed materials, artwork, data, components or other materials supplied by or on behalf of the Customer.

“Goods” means any physical products, printed materials or other goods supplied by the Seller.

“Seller” means The First Mailing Co Ltd.

“Services” means any printing, data processing, personalisation, direct mail, fulfilment, enclosing, packaging, storage, mailing, distribution or other services supplied by the Seller.

1.2 These Terms and Conditions shall apply to all Goods and Services supplied by the Seller and shall take precedence over any terms and conditions proposed by the Customer unless expressly agreed in writing by an authorised representative of the Seller.

1.3 No variation to these Terms and Conditions shall be binding unless agreed in writing by an authorised representative of the Seller.

2. QUOTATIONS AND ORDERS

2.1 Unless otherwise stated in writing, all quotations shall remain valid for 30 days from the date of issue.

2.2 Quotations are based upon the costs applicable at the date of quotation. The Seller reserves the right to amend its prices where underlying costs increase significantly before an order is accepted or before the relevant Goods or Services are supplied.

2.3 Such costs may include, without limitation, postage and postal operator charges, paper, board, materials, transport, energy, labour and third-party goods or services.

2.4 A Contract shall be formed when the Seller accepts the Customer's order in writing or commences work with the authority of the Customer.



2.5 The Customer shall be responsible for ensuring that all instructions, specifications, quantities, artwork, data and other information supplied to the Seller are complete and accurate.

3. CUSTOMER ARTWORK, DATA AND MATERIALS

3.1 The Customer shall be responsible for the accuracy, legality and suitability of all artwork, data, specifications and Customer Materials supplied to the Seller.

3.2 The Customer warrants that it has all necessary rights, permissions and authority to provide such artwork, data and Customer Materials to the Seller and to authorise their use in connection with the Services.

3.3 The Customer shall supply Customer Materials in a condition and format suitable for the agreed production, fulfilment or mailing process and in sufficient quantities to allow for reasonable machine set-up, testing, production processes and normal production wastage.

3.4 The Seller reserves the right to reject Customer Materials which, in its reasonable opinion, are defective, damaged, unsuitable or incompatible with its equipment or the agreed production or mailing process.

3.5 Where Customer Materials require sorting, counting, rearranging, cutting, folding, repackaging or other preparation before they can be processed, the Seller may charge the Customer for the additional work and associated costs.

3.6 The Seller shall not be responsible for delays, additional costs or shortages arising from insufficient, defective, damaged or unsuitable Customer Materials.

3.7 The Customer shall indemnify the Seller against any reasonable losses, liabilities, costs or claims arising from the Seller's use of Customer-supplied artwork, data or materials in accordance with the Customer's instructions.

3.8 Where Customer Data requires additional processing, cleansing, reformatting, validation, correction or preparation beyond the scope of the agreed Services, the Seller reserves the right to charge for such additional work.

4. PROOFS AND APPROVAL

4.1 Where proofs, samples or other materials are supplied for approval, the Customer shall be responsible for carefully checking all relevant content, including spelling, addresses, artwork, layout and specifications.

4.2 Approval of a proof or sample, whether given in writing or electronically, shall constitute authority for the Seller to proceed with production.

4.3 The Seller shall not be liable for errors contained within artwork, data or proofs approved by the Customer, except where the Seller subsequently introduces an error that was not present in the approved version.

5. PRODUCTION AND QUANTITIES

5.1 The Seller shall exercise reasonable care and skill in providing the Goods and Services.

5.2 Reasonable industry tolerances in respect of colour, cutting, folding, positioning, quantities and other production processes shall be permitted.

5.3 Unless a specific quantity is expressly guaranteed in writing, reasonable variations in the quantity of Goods produced or supplied shall not constitute a breach of Contract.

5.4 Reasonable and unavoidable spoilage or wastage arising during normal production, fulfilment or mailing processes shall not be treated as a shortage or loss for which the Seller is responsible.

6. CUSTOMER-OWNED STOCK AND STORAGE

6.1 Customer Materials shall remain the property of the Customer at all times.

6.2 The Seller may have possession, custody and control of Customer Materials solely for the purpose of providing the agreed Goods and Services. Possession of such materials shall not transfer ownership or any proprietary interest to the Seller.

6.3 Following completion of production, fulfilment or mailing work, surplus Customer Materials, production overs or residual stock may remain in the possession of the Seller.

6.4 Where such materials relate to an ongoing or repeat weekly or monthly programme, the Seller will provide storage for reasonable quantities of surplus or residual Customer Materials free of charge for a period of 14 days following completion of the relevant work, unless otherwise agreed in writing.

6.5 Following the expiry of the 14-day period, the Seller may recycle or otherwise dispose of surplus or residual Customer Materials unless the Customer has provided alternative written instructions before the expiry of that period.

6.6 Where the Customer requests the return of Customer Materials or surplus stock, the Customer shall be responsible for all reasonable costs associated with locating, picking, counting, handling, packing, transport and delivery.

6.7 Where the Customer requires Customer Materials to be retained beyond the 14-day period, this must be agreed with the Seller. The Seller reserves the right to charge for extended storage, handling and stock management.

6.8 The Customer remains responsible for maintaining appropriate insurance in respect of its Customer Materials and stock, including while such materials are held by the Seller or are in transit, subject always to the Seller's obligation to exercise reasonable care while the materials are in its possession.

6.9 The Seller shall not be liable for deterioration, inherent defects, inadequate packaging or any loss or damage arising from circumstances beyond its reasonable control.

7. PRICES AND PAYMENT

7.1 All prices are exclusive of VAT unless expressly stated otherwise.

7.2 Unless otherwise agreed in writing or unless payment is required on a pro forma basis, invoices shall be paid within 30 days following the end of the calendar month in which the relevant invoice is issued.

7.3 The Customer shall not withhold payment, make deductions or set off any amount against an invoice unless required by law or agreed in writing by the Seller.

7.4 If payment is not received when due, the Seller may, without prejudice to any other right or remedy:

- a. Suspend work or further deliveries
- b. Withhold the release of Goods or Customer Materials where legally permitted
- c. Suspend or cancel outstanding orders; and/or
- d. Charge interest, compensation and reasonable recovery costs in accordance with applicable legislation.

8. POSTAGE, DELIVERY AND PRO FORMA PAYMENTS

8.1 Postage, postal operator charges and any other costs identified by the Seller as requiring payment in advance shall be payable on a pro forma basis.

8.2 The Seller must receive cleared funds before mailing items are released to a postal operator, carrier or other relevant third party.

8.3 The Customer acknowledges that postage and other third-party charges may change and shall remain responsible for the applicable charges relating to the relevant mailing or service.

8.4 The Customer shall be responsible for any additional charges imposed by postal operators, carriers or other third-party service providers in connection with the Customer's Goods or Services, including return-to-sender charges, redelivery charges, surcharges, customs duties, taxes and other charges arising in connection with the relevant service.

8.5 The Seller shall not be required to finance postage or other third-party costs on behalf of the Customer.

9. DELIVERY AND MAILING SERVICES

9.1 Any delivery or completion dates provided by the Seller are estimates unless expressly agreed otherwise in writing.

9.2 The Seller shall use reasonable endeavours to meet agreed timescales but shall not be liable for delays caused by circumstances beyond its reasonable control.

9.3 Risk in Goods supplied by the Seller shall pass to the Customer upon delivery or collection, as applicable.

9.4 Where the Seller provides mailing, distribution or delivery services through a third-party postal operator, carrier or distribution provider, the Seller's responsibility for the physical handling of the relevant items shall normally end when those items are handed to the relevant provider.

9.5 The Seller shall not be liable for delays, losses or delivery failures occurring within a third-party postal or delivery network unless directly caused by the Seller's failure to exercise reasonable care and skill.

9.6 Unless otherwise expressly agreed in writing, the Customer shall be responsible for obtaining any additional transit or other insurance it requires beyond any standard liability cover provided by the relevant carrier or postal operator.

10. CANCELLATION AND CHANGES

10.1 Once an order has been accepted or work has commenced, the Customer may not cancel or materially amend the order without the Seller's written agreement.

10.2 Where the Seller agrees to a cancellation or amendment, the Customer shall remain liable for all work completed, materials purchased, production time, committed capacity, administration, third-party commitments and other reasonable costs and expenses incurred by the Seller.

10.3 The Customer shall also be responsible for any unavoidable costs, charges or losses arising directly from the cancellation, to the extent reasonably incurred by the Seller.

10.4 The Seller reserves the right to charge for additional work or costs resulting from changes to artwork, data, specifications, quantities or instructions after an order has been accepted.

11. COMPLAINTS AND DEFECTS

11.1 The Customer shall inspect Goods as soon as reasonably practicable following delivery.

11.2 Any visible shortage, defect or damage must be notified to the Seller as soon as reasonably practicable and, where possible, within seven days of delivery.

11.3 Where a defect is not reasonably apparent upon reasonable inspection, the Customer must notify the Seller within a reasonable period after discovering the issue.

11.4 The Seller shall be given a reasonable opportunity to investigate any complaint before the Customer takes corrective action or disposes of the relevant Goods.



11.5 Where the Seller accepts responsibility for defective Goods or Services, the Seller may, at its discretion, repair or replace the relevant Goods, repeat the relevant Services or provide an appropriate refund or credit.

12. DATA PROTECTION AND CONFIDENTIALITY

12.1 Each party shall comply with its respective obligations under applicable data protection legislation.

12.2 Where the Seller processes personal data on behalf of the Customer, the Customer shall remain responsible for ensuring that it has a lawful basis for providing such data and instructing the Seller to process it.

12.3 The Seller shall process Customer Data only as reasonably necessary to provide the agreed Services and in accordance with applicable legal and contractual requirements.

12.4 Each party shall treat the other party's confidential commercial information as confidential, except where disclosure is required by law or is reasonably necessary for the performance of the Contract.

13. LIMITATION OF LIABILITY

13.1 Nothing in these Terms and Conditions shall exclude or limit liability for death or personal injury caused by negligence, fraud or fraudulent misrepresentation, or any other liability which cannot lawfully be excluded or limited.

13.2 Subject to Clause 13.1, the Seller shall not be liable for:

- a. Loss of profit
- b. Loss of business or business opportunity
- c. Loss of goodwill
- d. Indirect or consequential loss; or
- e. Losses arising from the acts or omissions of third-party postal operators, carriers or service providers, except where directly caused by the Seller.

13.3 Subject to Clause 13.1, the Seller's total liability arising from any individual Contract shall not exceed the amount paid or payable by the Customer for the specific Goods or Services giving rise to the claim, excluding postage, postal operator charges, taxes, duties, carrier charges and other third-party costs paid or payable by the Seller on behalf of the Customer.

13.4 The Customer should maintain appropriate insurance in respect of its own materials, stock, data and business activities.

14. FORCE MAJEURE

14.1 The Seller shall not be liable for any failure or delay in performing its obligations where such failure or delay results from circumstances beyond its reasonable control.

14.2 Such circumstances may include, without limitation, postal disruption, industrial action, machinery failure, power interruption, fire, flood, severe weather, shortages of materials, transport disruption, acts of government or any other event beyond the Seller's reasonable control.

15. TERMINATION AND INSOLVENCY

15.1 Either party may terminate a Contract where the other party commits a material breach and, where that breach is capable of remedy, fails to remedy it within a reasonable period following written notice.

15.2 The Seller may suspend or terminate a Contract immediately where the Customer becomes insolvent, ceases trading or where the Seller reasonably believes that the Customer may be unable to meet its payment obligations.

15.3 Termination shall not affect any rights or liabilities which have accrued before termination.

16. GENERAL

16.1 The Customer may not transfer or assign its rights or obligations under a Contract without the prior written consent of the Seller.

16.2 If any provision of these Terms and Conditions is found to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

16.3 No failure or delay by either party to exercise a right shall constitute a waiver of that right.

16.4 A person who is not a party to the Contract shall have no right to enforce any term of the Contract under the Contracts (Rights of Third Parties) Act 1999.

16.5 These Terms and Conditions, together with any quotation, order confirmation or other documents expressly incorporated into the Contract, constitute the entire agreement between the parties in relation to the relevant Goods and Services.

16.6 These Terms and Conditions and any Contract shall be governed by the laws of England and Wales, and the courts of England and Wales shall have exclusive jurisdiction in relation to any dispute arising from them.

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