

York Mailing Terms and Conditions

YORK MAILING LIMITED - TERMS AND CONDITIONS OF SALE

1 Definitions and interpretation

1.1 In these Conditions:- 'Buyer' means the person who accepts a YM quotation for the sale of Goods or whose order for Goods is accepted by YM; 'Goods' means goods and related services (including printing and the mailing of the goods or any parts for them) which YM is to supply in accordance with these Conditions; 'YM' means York Mailing Limited (registered in England under number 3582268); 'Conditions' means the terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between Buyer and YM; 'Contract' means the contract for the purchase and sale of Goods. 1.2 Reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time. 1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2 The sale

2.1 YM shall sell and Buyer shall purchase Goods in accordance with any written quotation of YM which is accepted by Buyer, or any written order of Buyer which is accepted by YM. These Conditions shall govern the Contract to the exclusion of any other terms subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by Buyer. 2.2 No variation to these Conditions shall be binding unless approved in writing by the managing director of YM. 2.3 YM's employees or agents are not authorised to make any representations or give any advice or recommendations concerning Goods unless confirmed by YM in writing. In entering into the Contract Buyer acknowledges that it does not rely on any such representations, advice or recommendations which are not so confirmed. 2.4 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, invoice or other document or information issued by YM shall be subject to correction without any liability on the part of YM.

3 Orders and specification

3.1 No order submitted by Buyer shall be deemed to be accepted by YM unless and until confirmed in writing by YM's authorised representatives. 3.2 Buyer shall be responsible to YM for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by Buyer, and for giving YM any necessary information relating to Goods within a sufficient time to enable YM to perform the Contract in accordance with its terms. 3.3 The quantity, quality and description of Goods shall be that set out in YM's quotation (if accepted by Buyer) or Buyer's order (if accepted by YM) subject to the provisions of clause 4. 3.4 YM shall not be required to print any matter which in its opinion is or may be of an illegal or libellous nature or an infringement of the proprietary or other rights of any third party. Buyer shall indemnify YM against all loss, damages, costs and expenses awarded against or incurred by YM in connection with any claim for any libellous

material or any infringement of any patent, copyright, design, trade mark or other intellectual property rights of any other person which results from any material printed for Buyer. The indemnity shall extend to any amounts paid on a lawyer's advice in settlement of any claim. 3.5 No order which has been accepted by YM may be cancelled by Buyer except with the written agreement of YM and on terms that Buyer shall indemnify YM in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by YM as a result of cancellation. Any deposit received by YM shall be taken into account when calculating the sum owed to YM by Buyer pursuant to this clause.

4 Printing

4.1 All preliminary work carried out, whether experimentally or otherwise, at Buyer's request shall be charged to Buyer. 4.2 A charge may be made to cover any additional work involved where copy supplied by Buyer is not clear and legible. 4.3 Proof of all work may be submitted for Buyer's approval and YM shall incur no liability for any errors not corrected by Buyer in proofs so submitted. Buyer's alterations and additional proofs necessitated thereby shall be charged extra. When style, type or layout is left to YM's judgement, changes therefrom made by the Buyer shall be charged extra.

5 Price

5.1 The price of Goods shall be YM's quoted price subject to any variation permitted in these Conditions. All prices quoted are valid for 60 days only or until earlier acceptance by Buyer, after which time they may be altered by YM without giving notice to Buyer. 5.2 YM reserves the right, by giving notice to Buyer at any time before delivery, to increase the price of Goods to reflect any increase in the cost to YM which is due to any factor beyond the control of YM (such as, without limitation, any significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for Goods which is requested by Buyer, any delay caused by any instructions of Buyer. 5.3 Except as otherwise stated under the terms of any quotation by YM, and unless otherwise agreed in writing, all prices are given by YM on an ex works basis, and where YM agrees to deliver Goods otherwise than at YM's premises, YM shall be entitled to invoice Buyer and Buyer shall be liable to pay YM's charges for transport, packaging and insurance. 5.4 The price is exclusive of any applicable value added tax, which Buyer shall be additionally liable to pay to YM.

6 Payment

6.1 Subject to any special terms agreed in writing, on formation of a Contract Buyer shall pay to YM a non-refundable deposit of 30% of the price of the Goods and YM shall be entitled to invoice Buyer for the outstanding price of Goods (or any part of the Goods) on or at any time after their delivery, unless Goods are to be collected by Buyer or Buyer wrongfully fails to take delivery of Goods, in which event YM shall be entitled to invoice Buyer for the outstanding price at any time after YM has notified Buyer that Goods are ready for collection or (as the case may be) YM has tendered delivery of Goods. 6.2 Unless otherwise stated in YM's quotation, Buyer shall pay the price of Goods including additional

charges (if any) payable pursuant to these Conditions in full within 30 days of month end of YMs invoice, and YM may recover the price, notwithstanding that delivery may not have taken place and property in Goods has not passed to Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request. 6.3 If Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to YM, YM shall be entitled to :- (a) cancel the Contract or suspend any further deliveries to Buyer; (b) appropriate any payment made by Buyer to such of the Goods (or the goods or services supplied under any other contract between Buyer and YM) as YM may think fit (notwithstanding any purported appropriation by the Buyer); and (c) charge Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 3% per annum above Yorkshire Bank plc base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

7 Delivery

7.1 Delivery of Goods shall be made by YM delivering Goods to an agreed delivery location and in default of agreement to Buyer's registered office. 7.2 Any dates quoted for delivery of Goods are approximate only and YM shall not be liable for any delay in delivery of Goods however caused. Goods may be delivered in advance of the quoted delivery date upon YM giving reasonable notice to Buyer. 7.3 Where Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by YM to deliver any one or more of the instalments in accordance with these Conditions or any claim by Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated. 7.4 If Buyer fails to take delivery of Goods or fails to give YM adequate delivery instructions at the time stated for delivery (otherwise than by reason of YMs fault) then, without prejudice to any other right or remedy available to YM, YM may: (a) store the Goods until actual delivery and charge Buyer for the reasonable costs (including insurance) of storage; or (b) sell Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge Buyer for any shortfall below the price under the Contract. 7.5 Time of delivery shall not be of the essence of the Contract. 7.6 Should work be suspended at the request of or delayed through any default of Buyer for a period of 30 days the printer shall then be entitled to payment for work already carried out, materials specially ordered and other additional costs including storage.

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instructions at the time stated for delivery (otherwise than by reason of YM's fault) then, without prejudice to any other right or remedy available to YM, YM may: (a) store the Goods until actual delivery and charge Buyer for the reasonable costs (including insurance) of storage; or (b) sell Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge Buyer for any shortfall below the price under the Contract. 7.5 Time of delivery shall not be of the essence of the Contract. 7.6 Should work be suspended at the request of or delayed through any default of Buyer for a period of 30 days the printer shall then be entitled to payment for work already carried out, materials specially ordered and other additional costs including storage.

8 Risk and title

8.1 Risk of damage to or loss of Goods shall pass to Buyer at the time of delivery or, if Buyer wrongfully fails to take delivery of Goods, the time when YM has tendered delivery of Goods. 8.2 Notwithstanding delivery and the passing of risk in Goods, or any other provision of these Conditions, the property in Goods shall not pass to Buyer until YM has received in cash or cleared funds payment in full of the price of Goods and all other goods and/or services to be supplied by YM to Buyer for which payment is then due. 8.3 Until such time as the property in Goods passes to Buyer, Buyer shall hold Goods as YMs fiduciary agent and bailee, and shall keep Goods in good condition and repair and separate from those of Buyer and third parties and properly stored, protected and insured and identified as YM's property and shall not be permitted to sell the Goods without the consent in writing of YM's managing director. 8.4 Until such time as the property in Goods passes to Buyer, YM may at any time require Buyer to deliver up Goods to YM and, if Buyer fails to do so forthwith, to enter upon any premises of Buyer or any third party where Goods are stored and repossess Goods. 8.5 Buyer may not pledge or in any way charge by way of security any of Goods which remain the property of YM, but if Buyer does so all moneys owing by Buyer to YM shall (without prejudice to any other right or remedy of YM) forthwith become due and payable.

9 Warranties and liability

9.1 Subject to the conditions set out below YM warrants that the Goods will correspond with the quotation at the time of delivery. 9.2 YM shall use all reasonable endeavours to deliver the correct quantity ordered, but quotes are given on the basis of margins of 5 per cent for work in one colour only and 10 per cent for other work being allowed for overs or shortage (4 per cent and 8 per cent respectively for quantities exceeding 50,000) the same to be charged or deducted. 9.3 The above warranty is given by YM subject to the following conditions: (a) YM shall be under no liability in respect of any defect in Goods which was apparent on inspection of a proof submitted pursuant to clause 4.3 or which arises from any illegible or inaccurate drawing, design or specification supplied by Buyer; (b) YM shall be under no liability in respect of any defect in the Goods arising from clause 10.3(b); (c) YM shall be under no liability unless Buyer gives written notice to YM of the alleged defects in the Goods, such notice to be received by YM within 7 days of delivery; (d) YM shall be under no liability unless Buyer allows YM reasonable opportunity to inspect the Goods or, if so requested, returns the alleged defective Goods to YM's premises at Buyer's cost; and (e)

YM shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for Goods has not been paid in full and the date for payment has passed. 9.4 Subject as expressly provided in these Conditions, and except where Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law. 9.5 Any claim by Buyer which is based on any damage, delay or partial loss of Goods in transit (whether or not delivery is refused by Buyer) be notified to YM either within 7 days from the date of delivery if apparent from a visual inspection or in the case of non delivery within 28 days of despatch of the Goods. If delivery is not refused, and Buyer does not notify YM accordingly, Buyer shall not be entitled to reject Goods and YM shall have no liability for such defect or failure, and Buyer shall be bound to pay the price as if Goods had been delivered in accordance with the Contract. 9.6 Where any valid claim in respect of Goods which is based on any defect in the quality or condition of Goods or their failure to meet specification is notified to YM in accordance with these Conditions, YM may replace Goods (or the part in question) free of charge or, at YM's sole discretion, refund to Buyer the price of Goods (or a proportionate part of the price), but YM shall have no further liability to Buyer. 9.7 Subject to clause 9.6 the following provisions set out the entire financial liability of YM (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Buyer in respect of: a) Any breach of these conditions b) Any use made or resale by the Buyer of any goods, or of any product incorporating any of the Goods; and c) Any representation, statement or tortious act or omission including negligence arising under or in connection with the contract. 9.7.1 All warranties, conditions and other terms implied by statute or common law, are to the fullest extent permitted by law, excluded from the contract. 9.7.2 Nothing in these conditions excludes or limits the liability of YM for: a) Death or personal injury caused by YM's negligence b) For any matter which it would be illegal for YM to exclude or attempt to exclude its liability; or c) For fraud or fraudulent misrepresentation 9.7.3 Subject to 9.7.1 and 9.7.2: a) The total liability of YM in contract, tort (including negligence or breach of statutory duty) misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the contract shall be limited to the contract price; and b) YM shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the contract. 9.8 The obligations of YM hereunder shall be suspended during the period and to the extent that YM is prevented or hindered from complying therewith by any cause beyond its reasonable control. In such event, YM shall give notice of suspension to Buyer stating the date and extent of such suspension and the cause thereof. YM shall use reasonable endeavours to remedy such cause and shall resume the performance of such obligations as soon as reasonably possible after the removal of the cause. During the continuance of such a contingency Buyer may by written notice to YM elect to terminate the contract and pay for work done and materials used, but subject thereto shall otherwise accept delivery when available.

10 Miscellaneous

10.1 Standing material (a) Metal, film, glass and other materials owned by YM and used by YM in the production of type, plates, moulds, stereotypes, electrotypes, film-setting, negatives, positives and the like shall remain YM's exclusive property. Such items when supplied by Buyer shall remain Buyer's property 10.2 Buyer's property (a) Except in the case of a Buyer who is not contracting in the course of a business or holding himself out as doing so, Buyer's property and all property supplied to YM by or on behalf of Buyer shall while it is in the possession of YM or in transit to or from Buyer be deemed to be at Buyer's risk unless otherwise agreed and Buyer should insure accordingly. (b) YM shall be entitled to make a reasonable charge for the storage of any Buyer's property left with the printer before receipt of the order or after notification to Buyer of completion of the work. 10.3 Materials supplied by Buyer (a) YM may reject any paper, plates or other materials supplied or specified by Buyer which appear to him to be unsuitable. Additional cost incurred if materials are found to be unsuitable during production may be charged except that if the whole or any part of such additional cost could have been avoided but for unreasonable delay by YM in ascertaining the unsuitability of the materials then that amount shall not be charged to Buyer. (b) Where materials are so supplied or specified, YM will take every care to secure the best results, but responsibility will not be accepted for imperfect work caused by defects in or unsuitability of materials so supplied or specified. (c) Quantities of materials supplied shall be adequate to cover normal spoilage.

11 Insolvency of Buyer

11.1 Without prejudice to any other right or remedy available to YM, YM may cancel the Contract or suspend any further deliveries under the Contract and immediately charge Buyer for work carried out (whether completed or not) and materials purchased for the Contract such charge to be an immediately due debt if:- (a) Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or (b) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of Buyer; or (c) Buyer ceases, or threatens to cease, to carry on business; or (d) YM reasonably believes that any of the events mentioned above is about to occur in relation to Buyer. 11.2 If clause 11.1 applies then:- (a) If Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary; (b) YM shall have a general lien on all Buyer's property and materials in YM's possession and shall be entitled on 14 days notice to Buyer, to dispose of such goods or property in such manner and at such reasonable price as he is reasonably able to obtain and to apply the proceeds (after deduction of reasonable costs of the sale) to any sums due from Buyer to YM.

12 General

12.1 YM may assign or sub-contract this Contract or any part thereof. 12.2 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. 12.3 No waiver by YM of any breach of the

Contract by Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision. 12.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected. 12.5 The Contract shall be governed by and construed in accordance with the laws of England, and the Buyer agrees to submit to the non-exclusive jurisdiction of the English courts.