

Mail Shot International Ltd. Terms & Conditions.

Our conditions of supply

These terms and conditions (hereinafter referred to as the “Conditions”) supersede all previous conditions, including any terms and conditions of the Buyer and shall not be superseded, varied or waived other than by the express written consent of the Seller.

The Seller reserves the right to amend these Conditions from time to time without notice and at the Seller’s sole discretion. Any such amendments shall come into effect immediately. It is therefore the Buyer’s responsibility to periodically review the Conditions since any order or other request for Work shall be conclusive proof that the Buyer accepts these Terms and Conditions of Business.

Key definitions

In these Conditions, the following definitions shall apply:

The “Buyer” means the party contracting with the “Seller” to acquire the work.

The “Seller” means Mail Shot International Limited whose registered office is situate and known as Batchworth House, Batchworth Place, Church Street, Rickmansworth, Hertfordshire, WD3 1JE. Mail Shot International Limited is registered with Companies House under company registration number 02451983 and is registered with the Information Commissioner’s Office.

“Work” and “Preliminary Work” means all goods and services.

“Electronic file” means any text, illustrations or other concept produced by either party in digitalised format and/or communicated electronically.

“Intellectual Property” means all copyright, patents, trademarks and trade names, design rights and any other intellectual property.

Delivery and performance

The Seller shall have no liability for any failure to deliver the work or any part thereof promptly or for reasons beyond its control. The Buyer shall nevertheless be bound to accept delivery and to pay for any Work in full whenever that delivery shall be tendered.

Unless otherwise agreed between the parties, the Work shall be delivered to the Buyer at the address supplied by the Buyer in writing prior to despatch. The Buyer shall remain responsible for ensuring that all necessary arrangements are made to take delivery of the Work including (but not limited to) off-loading, onward transportation and storage. The Buyer is also required to notify the Seller in advance of any parking or offloading issues which might reasonably be expected.

In certain circumstances the Seller may deliver the Work by way of separate instalments with each instalment to be invoiced and paid for in accordance with these Conditions. Any failure of the Buyer to pay for any one or more of the said instalments on the due dates shall entitle the Seller to suspend further deliveries of Work without notice until such payments are cleared in full.

The Seller uses a third party for the despatch and delivery of both domestic and international mail. The Seller will not be held liable for any delays, loss or damage howsoever caused by the preferred third party once the goods have left the Seller’s premises.

All deliveries to the Seller's premises shall be accompanied by a delivery note or docket(s) stating the quantity and nature of all such material delivered. The Buyer acknowledges and agrees that the Seller cannot check for discrepancies between quantities shown on delivery notes or dockets and actual quantities. The Buyer further agrees that any signature required to accept delivery does not render the Seller liable for any subsequent shortfall of goods.

Intellectual Property

Unless otherwise stated, any copyright and any other intellectual property rights belong to the Seller. This includes, without limitation, text, images, web pages, sound, software (including code, interface and website structure), video, photographs and graphical images.

For the purpose of these Conditions any use of extracts from our website is strictly prohibited.

For the avoidance of doubt, the Buyer agrees that it may not copy, reproduce, transmit, publicly perform, distribute, commercially exploit, adapt, translate, modify, bundle, merge, share or make available to any person any of the Seller's material or content.

Should the Buyer or any associated third party of the Buyer breach these Conditions then permission to use the Seller's website is automatically terminated and the Buyer must immediately destroy any downloaded or printed extracts from the site.

Any rights not expressly granted in these Conditions are reserved.

Payment terms

All initial estimates provided by the Seller are subject to amendment unless otherwise agreed in writing.

Unless specifically notified otherwise the Buyer shall pay the Seller's invoices as may be rendered from time to time within ten days of the said invoice.

Quotes are given exclusive of VAT which is charged at the standard rate.

Any additional Work required by the Buyer as a result of providing insufficient or incorrect instructions shall be chargeable and the Seller will not be held responsible for any late delivery of the same.

Should the Work be delayed or suspended for any reason other than through the default of the Seller, then the Seller shall be entitled to charge for reasonable storage and any other associated costs. Should such a delay extend for a period of 30 days or more then the Seller shall be entitled to immediate payment for Work undertaken to date, including additional materials and costs incurred.

Should it become necessary to issue legal proceedings for recovery of any outstanding invoice then the Seller will be entitled to claim any associated legal fees, Court costs, late payment compensation and interest pursuant to s.69 of the County Court Act 1984.

Should the Buyer fail to pay invoices during the normal course of business, or cannot pay debts due to insolvency or bankruptcy proceedings being issued, then the Seller without prejudice to any other remedies shall:

- a) Exercise the right not to proceed further with the contract or any other work for the Buyer and be entitled to charge for work already undertaken (whether completed or not) and materials purchased for the Buyer, such charge to be an immediate due debt and;

- b) In respect of all unpaid debts from the Buyer have a general lien on all goods and property (whether worked on or not) and shall be entitled at the expiration of 14 days' notice to dispose of such goods or property in such a manner and at such a price as the Seller thinks fit and to apply the proceeds towards such debt(s)

Electronic files

The Buyer shall maintain copies of all electronic files provided to the Seller.

The Seller will not be held responsible for checking the accuracy of any data supplied to it by the Buyer unless otherwise agreed in writing.

If an electronic file is not suitable for output then the Seller may either reject the file or charge for any additional costs incurred in respect of any corrective action required.

Where the content of the Work is generated by the Seller it may at its discretion replace any material supplied by the Buyer with materials of either a similar or better quality.

Should the Seller consider the supplied materials to be unsuitable then it will notify the Buyer. Should the Buyer authorise the Work to proceed then the Seller will not be held responsible for the quality of the Work produced.

Quantities of materials supplied by the Buyer shall be adequate to cover normal spoilage together with any costs incurred as a result of any shortages.

Risk and storage

All property supplied to the Seller either by or on behalf of the Buyer shall, whilst it is in the Seller's possession or is in transit to or from the Seller, be deemed to be at the Buyer's own risk unless otherwise agreed in writing.

The Seller shall be entitled to make reasonable charges for the storage of any property supplied by or on behalf of the Buyer before receipt of the order.

The Buyer warrants to the Seller that the Buyer owns or has absolute rights to use all Intellectual Property and/or any other proprietary interests in all materials (including Electronic files) supplied by or on behalf of the Buyer and shall indemnify the Seller in respect of any claims, costs and expenses arising thereof.

Materials and/or other equipment supplied by the Seller

All materials owned or supplied by or on behalf of the Seller in the production of any part of the Work shall remain the Seller's property at all times.

Design services

The Buyer shall provide a clear written specification to the Seller; including full details of the product to be designed together with details of any given timescale. The Buyer will promptly respond to all enquiries raised by the Seller about any specifications and/or requirements.

The Seller shall be under no liability howsoever caused to the Buyer in respect of any loss and/or expense suffered by the Buyer arising out of any design created or developed by the Seller which infringes or is similar to any design or design rights of any third party.

The Seller shall not be held liable for any losses arising as a result of misquoted prices or incorrect coding.

Proofs and variations/amendments

The Work is undertaken by the Seller on the basis that all proofs will be provided, checked by the Buyer and approved prior to production of the Work. The Seller will not be held liable for any errors (including any errors introduced by the Seller).

Any alterations, preliminary work and/or additional proofs required by the Buyer shall be chargeable at the standard rates.

Due to differences in equipment, paper, inks and other factors between colour proofing and production runs it is hereby agreed and accepted by the Buyer that a reasonable variation in colour between the proofs and the completed job will be acceptable.

Estimates for quantity are based on current costs and are conditional upon margins of 5% either way which will be chargeable or deductible, as may be the case. The Seller will not be held to any price estimated over the telephone.

The Seller may at any time during the process change the specification of the Work as required to comply with any applicable safety or statutory requirements or which do not materially impair the function of the Work.

All implied and express terms, conditions and warranties relating to quality and/or fitness for the purpose of the Work are excluded whether made by the Seller or its servants or agents or otherwise.

Mailing services

The Seller shall carry out only those services as specifically specified in its estimate, or as otherwise agreed in writing to include carriage, storage, packing or handling. The Seller shall be entitled to perform any such services by itself or by any other associated third party albeit entirely at its own risk.

The Buyer shall ensure that all materials supplied to the Seller conform to the specifications in the estimate and that these are supplied punctually together with a delivery note specifying the quantity and description of all materials supplied.

The Seller shall check all materials supplied against the delivery note and shall report any discrepancies to the Buyer. The Seller shall not be held responsible for any loss arising from any errors in the materials supplied nor shall it be required to check the contents of deliveries supplied by or on behalf of the Buyer.

The Seller does not hold itself out as being an approved common carrier but shall be entitled to enter into contracts for carriage by any route or other means, including associated storage for the purposes of fulfilling given requirements under the terms of the contract.

The Buyer warrants to the Seller that all names, addresses and any other associated information supplied to the Seller for the purpose of fulfilling a given contract is accurate and that the Buyer has full authority to use such data for the purpose of mailing. The Buyer will indemnify the Seller from and against all claims, costs and other losses arising from the Seller's use of the data in connection with providing the mailing services, except to the extent that such losses arise from the default of the Seller in cleaning or otherwise verifying the data provided always that the Seller shall be under no obligation to clean or otherwise verify any data provided to it by the Buyer except where such services are specifically requested and form part of the mailing services and which will be subject to a separate additional charge.

Any cleaning or verification of data undertaken by the Seller will be on the basis that a proof will be provided, diligently checked by the Buyer and approved prior to the provision of the mailing services. The Seller shall not be liable for any errors.

Insurance

The Buyer acknowledges that it has read and fully understood these Conditions including all clauses relating to delivery, risk, storage and exclusion of liability.

Acceptance of goods

The Buyer shall be deemed to have accepted the Work upon delivery. The Buyer shall inspect all the Work within 24 hours of delivery and shall within 24 hours notify the Seller of any defects or if the Work is not in accordance with the contract.

In the event of damage, loss, non-delivery or delay of Work in transit the Buyer shall notify the Seller and carrier within 24 hours of delivery (or, in the case of non-delivery, within 12 hours of notification of despatch). Any claim howsoever caused must be made in writing to both the Seller and nominated carrier within 5 days. Should notification not be made within this time period then the Seller shall not be liable in respect of any claim for damage, delay or loss of Work in transit.

General exclusion terms and limitation

The Seller shall be under no liability howsoever caused to the Buyer for any consequential or indirect loss and/or expense (including any loss of turnover and profit) suffered by the Buyer arising out of a breach of the contract or negligence by the Seller.

In the event of breach of these Conditions or negligence by the Seller the remedies of the Buyer shall be limited to damages only. Under no circumstances shall the liability of the Seller exceed the price of the Work.

The Seller shall be under no liability whatever in respect of the following which are hereby expressly excluded, except insofar as such exclusions may be unlawful if deemed so by an appropriate Court of law within England and Wales:

- For injury or damage to personal property howsoever caused;
- For any costs incurred by the Buyer without the express written consent of the Seller to repair or replace the Work whether defective or otherwise.

Where the Seller offers to replace defective Work the Buyer must accept such an offer unless it can show clear and reasonable cause for refusing to do so. In the event that the Buyer opts to have the Work re-done by any third party without first notifying the Seller in writing then the Buyer automatically revokes their right to any remedies from the Seller including (but not limited to) the right to a credit or refund of the gross price.

Where the work is to be approved by a third party acting on behalf of the Buyer then the Seller shall not be liable for claims arising subsequent to the third party's processing. Furthermore, the Seller reserves the right to reject any Work forwarded to it after initial processing by a third party as soon as reasonably practicable without processing the Work any further. If the Buyer, notwithstanding such rejection, requires the Seller to continue, then the Seller shall only be obliged to do so after confirmation from the Buyer in writing and the Seller shall have no liability for the quality of the Work.

Nothing in these Conditions shall exclude any liability for personal injury or death caused by the negligence of the Seller.

Cancellation

The Buyer may cancel the order prior to completion of the Work in which event the Buyer shall pay to the Seller such charges as the Seller may reasonably determine which may include materials, labour, administration charges, loss of profit and other incidental expenses.

Force Majeure

The Seller shall not be liable for any claims, costs, damages or other losses suffered by the Buyer to the extent resulting from any failure on the part of the Seller, its servants and/or agents caused whether directly or indirectly by war, terrorism, act of any Government authority, civil unrest, embargo, computer system failure, storm, fire, accident, industrial action, acts of Goods, illness, energy or other supplies or any similar cause or matter beyond the reasonable control of the Seller.

Rights of third parties

The Buyer agrees that these Conditions are not intended to be and shall not be enforced by any person other than the Buyer under the Contracts (Rights of Third Parties) Act 1999. This does not affect any right or remedy of a third party which exists or is available apart from the said Act.

Jurisdiction

These Conditions shall be governed and construed in accordance with the English law. Any disputes arising from these Conditions shall be subject to the exclusive jurisdiction of the English Courts.