

1 Definitions

In these terms and conditions (“**Conditions**”), the following words shall bear the following meanings: “**Acceptance**” bears the meaning given in Condition 2(a); “**Confidential Information**” means information, which is confidential or private information to the disclosing party and which is not generally known or easily accessible by the public and which the disclosing party reasonably regards as confidential or relating in any way to its business, finances, dealings, transactions or affairs and/or in respect of whom or which the disclosing party is bound by an obligation whether express or implied; “**Contract**” means the contract between the Customer and the Service Provider formed on Acceptance, which incorporates these Conditions, the Proposal and the Instruction; “**Customer**” means the party that has submitted the Instruction for the Goods to be produced; “**Customer Materials**” means all documents, information, items and materials in any form, whether owned by the Customer or a third party, which are provided by the Customer to the Supplier in connection with the Contract; “**Delivery**” bears the meaning given in Condition 12 (a); “**Goods**” means the deliverables and work identified in the Specification together with such other deliverables and work as the Service Provider agrees to undertake at the request of the Customer or its representatives; “**Instruction**” means the Customer’s offer to purchase the Goods pursuant to the Contract, which may be submitted to the Service Provider by signing and returning the Service Provider’s engagement letter or otherwise given in writing (including by email); “**Intellectual Property Rights**” means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world; “**Proposal**” means the document prepared by the Service Provider which amongst other things sets out the Specification, its costs’ estimate for production and delivery of the Goods and its charges for other items; “**Service Provider**” means Black and Callow Limited, a company incorporated in England and Wales under company number 09203467; and “**Specification**” means that part of the Proposal which identifies the Goods which the Service Provider is to produce and deliver. References to the Service Provider shall include its permitted assignees.

2 Acceptance of Instruction

(a) An Instruction constitutes an offer by the Customer to purchase Goods in accordance with the Proposal and these Conditions.

(b) No contract shall exist until the Service Provider has accepted (whether verbally or in writing) an Instruction from the Customer to proceed with an order for the Goods (“**Acceptance**”).

(c) All Proposals are invitations to treat and are checked prior to their submission to the Customer. Errors or omissions may occasionally occur and in the event of a mistake (for example interpretation, calculation or typing) coming to light on receipt of an Instruction, the Service Provider shall submit an amended Proposal for the Customer’s consideration. If the Service Provider accepts and works on an Instruction where a pricing error is obvious and unmistakeable and could reasonably have been recognised by the Customer as a mispricing, the Service Provider may end the Contract, refund the Customer any sums it has paid and require the return of any Goods provided to the Customer.

(d) The Customer acknowledges and agrees that the Service Provider shall be entitled to consider that any person purportedly acting on behalf of the Customer is authorised to do so, and that that person has authority to contractually bind the Customer on all matters relating to the Goods (including requesting work in addition to that provided for in the Specification). The Customer accepts it shall be responsible and liable for all charges incurred as a result of such persons requesting work to be undertaken relating to the Goods.

3 Conditions

These Conditions override any differing terms and conditions which may appear on the Customer’s order form or other document issued by the Customer or which are implied by trade, custom, practice or course of

14 Liability (cont’d/-)

(b) Subject to Condition 14(a) above the Service Provider shall not be liable to the Customer in respect of any Event of Default for loss of profits, goodwill or any type of special indirect or consequential loss howsoever caused (including loss or damage suffered by the Customer as a result of an action brought by a third party) even if such loss was reasonably foreseeable in the contemplation of the Service Provider or if the Service Provider has been advised of the possibility of the Customer incurring the same.

(c) The Customer hereby agrees to afford the Service Provider not less than 30 days in which to remedy an Event of Default hereunder.

(d) Other than for wilful misconduct or fraud, the Service Provider shall be excluded from any other liability whether arising under this contract or otherwise and without prejudice to the generality of the foregoing shall be under no liability for negligence (other than in respect of death or personal injury) or otherwise in respect of any advice given.

(e) If and to the extent that a court of competent jurisdiction decides that the Service Provider shall be liable for any matter other than that contemplated by Condition 14(a) above, the liability of the Service Provider in that case shall be limited to a sum equal to the Service Provider’s charges for the work or that part of it so affected.

(f) The Service Provider shall not be liable howsoever in respect of any failure, delay or defect in the work or default caused by the supply or specification of unsuitable material by the Customer.

15 Exclusions

Except as expressly stated in these Conditions, all conditions, warranties, representations and/or undertakings, express or implied, statutory or otherwise are excluded to the extent permitted by law.

16 Customer’s property

If the Service Provider shall hold or work on property of the Customer or any third party it shall have no liability for any damage to or loss of such property, whether caused by negligence or otherwise. If the Service Provider shall hold any such property for more than one year it may give notice to the Customer requiring removal thereof and may dispose of the same if not removed within 30 days of such notice.

17 Confidentiality

(a) Each party undertakes it shall not at any time during the Contract, and for a period of five years after termination of the Contract, disclose to any person any Confidential Information save as required by law or where disclosure is to the receiving party’s directors, employees, agents, advisers, suppliers or subcontractors who need to know such information for the purposes of carrying out the receiving party’s obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party’s Confidential Information comply with this Condition 17.

(b) Neither party shall use the other party’s Confidential Information for any purpose other than to perform its obligations under the Contract.

18 Material (including data) supplied by Customer, its agents or advisors

The Service Provider may reject any Materials (including but not limited to data, pre-personalised documents, content, paper, signatures or other material supplied or specified by the Customer, its agents or advisors) if in the Service Provider’s opinion it is unsuitable, of defective quality or, in the case of data or pre-personalised documents, where such data would in the Service Provider’s reasonable belief, be unlikely to meet Royal Mail or other postal providers’ requirements. Any additional cost incurred thereby or in rectifying such defects or inadequacies shall be charged by the Service Provider. Such supply or specification must be within a reasonable time prior to production and of an adequate quantity to allow for normal spoilage.

19 Libel and obscenity

The Service Provider may refuse to print any work if in its opinion it contains matter likely to result in civil or criminal proceedings. Any work seized or ordered to be destroyed or made the subject of any injunction shall thereupon be deemed to have been delivered to the Customer, and the Service Provider shall be paid for the same and for all work carried out on or before the date of such seizure order or injunction as if so delivered.

20 Indemnity

The Customer hereby undertakes fully and effectually to indemnify and to keep indemnified the Service Provider from and against all liabilities, costs, expenses, damages and losses, all interest, penalties and legal costs (calculated on a full

dealing. No variation to these Conditions shall be effective unless it is agreed in writing and signed by the parties.

4 Sub-contracting and assignment

The Service Provider may, subject to its [Data Protection Addendum](#), at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

5 Agency

The Customer will not be regarded as acting as an agent for a third party unless this is clearly stated at the commencement of the transaction. If the Customer, acting as agent for a third party, contracts with the Company for and on behalf of that third party, it will be taken that the Customer is empowered, without restriction, to act for the third party and that the third party is bound contractually as principal to the Contract accordingly. The Service Provider will forward its invoice for Goods supplied to the Customer as agent on delivery of Goods and the Customer will forward such invoice to the third party within 14 days of receipt of same.

6 Price fluctuations

The Service Provider reserves the right to increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Service Provider that is due to any factor beyond the control of the Service Provider (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs).

7 Prices, charges and payments

(a) All prices and charges are based on the Service Provider's current costs of production, including materials and overheads, and are (except where expressly agreed) subject to increase or decrease by the Service Provider from time to time to take into account any rise or fall in such costs and overheads (including those referred to in Condition 6).

(b) The Customer acknowledges that the estimate provided within the Proposal is the Service Provider's estimate of the charges the Customer is likely to incur for Goods delivered within the Specification. The charges for those Goods delivered outside the Specification will, subject to Conditions 6 and 7(a), be based on the charges set out in the Proposal or otherwise the Service Provider's standard rates from time to time. Accordingly, the Customer acknowledges that the actual total charges payable by it may be higher than the estimate provided within the Proposal - by way of example only, additional fees may be incurred as a result of any material change in the Instruction or any urgent and/or unforeseen work that the Service Provider is required to do.

(c) The Service Provider shall, during the course of the Contract, provide the Customer, at the Customer's request, with costs updates as to the charges payable under the Contract.

(d) The Service Provider reserves the right to: (i) submit interim invoices for work carried out and materials ordered to date; (ii) submit proforma invoices for payment prior to commencement of work or ordering of materials; and/or (iii) at its discretion, assign a credit limit to the Customer's account and in any case where a credit limit is assigned reserves the right to advise if this credit limit is exceeded during the course of the transaction.

(e) Postage, unless stated otherwise, is charged extra at the standard Royal Mail First Class (stamps) rate prevailing at the time of mailing and includes any disbursements relating to mailing covered by the Service Provider. Any postage estimated as exceeding £10,000 will require payment in advance to the Service Provider.

(f) Unless specified on the invoice, payment shall be made by the Customer in full without deduction by way of set-off or otherwise within 30 days of the date of the Service Provider's invoice, save where an invoice is issued in respect of postage, in which case payment shall be due on presentation of such invoice. Time for payment shall be of the essence of the Contract. The Service Provider shall have the right to charge interest at 1.5 per cent per month calculated on a daily basis on overdue accounts.

8 Overtime

If as a result of any default by the Customer or of any delay in the supply to the Service Provider of any copy or materials it shall, in the reasonable opinion of the Service Provider, become necessary in order to meet delivery

(indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Service Provider in connection with any third party claims or proceedings whatsoever (including claims or proceedings settled by the Service Provider in its discretion) in respect of the Goods made or Customer Materials worked on or work carried out by the Service Provider pursuant to the Contract (except those arising out of the Service Provider's wilful misconduct, negligence or fraud). The foregoing includes (but not by way of limitation) claims or proceedings relating to actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of the Contract of the Customer Materials. .

21 Force majeure

Neither party shall be in breach of the Contract if there is any total or partial failure of performance by it of its duties and obligations under the Contract occasioned by any Act of God, fire, flood, power failure, reduction of power supplies, mechanical failure, lack or shortage of materials (not being due to the wilful default of the party) of government or stage, war, civil commotion, insurrection, embargo, strike, lockout, industrial dispute or action taken by the party or any other person, firm or company in connection therewith and any other reason beyond the control of either party. If either party is unable to perform its duties and obligations under the Contract as a direct result of the effect of one of such reasons such party shall give written notice to the other of such inability stating the reason in question. The operation of the Contract shall be suspended during the period (and only during the period) in which the reason continues. Forthwith upon the reason ceasing to exist the party relying upon it shall give written advice to the other of this fact. If the reason continues for a period of more than 90 days the party not claiming relief under this Condition 21 shall have the right to terminate the Contract upon giving 30 days' written notice of such termination to the other party.

22 Customer's default

If the Customer shall be in default under the Contract or any other contract with the Service Provider or the Service Provider has reason to believe that the Customer will be unable or unwilling to discharge its obligations to the Service Provider as they arise then the Service Provider may:

- (a) Cease work without any liability for any default thereby caused, and
- (b) Give notice thereof to the Customer whereupon the Customer shall pay forthwith for all goods and services supplied by the Service Provider under this or any other contract with the Customer (whether or not payment would otherwise be due) and a proper charge for all goods used or provided and work carried out prior to cessation of work as aforesaid.

23 Termination

(a) Both the Service Provider and the Customer shall have the right at any time by giving notice in writing to the other to terminate the Contract forthwith upon the happening of one or more of the following events:

- (i) If the other shall fail to make any payment within three days of the due date or shall fail to remedy any other breach within 30 days upon being required so to do in writing;
- (ii) If the other shall take any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (iii) If the other suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (iv) the other's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

(b) On termination of the Contract: (i) the Customer shall immediately pay to the Service Provider all of the Service Provider's outstanding unpaid invoices and interest and, in respect of Goods produced and/or delivered but for which no invoice has been submitted, the Service Provider shall submit an invoice, which shall be payable by the Customer immediately on receipt; and (ii) the Customer shall return all Goods which have not been fully paid for. If the Customer fails to do so, then the Service Provider may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

(c) Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the

dates to employ some or all of the Service Provider's employees at overtime rates or incur other additional costs, or if expedited delivery shall be agreed with the like results, the Service Provider shall be entitled to charge all overtime and additional costs so incurred.

9 Tax

All quotations and invoices shall be net of tax (unless otherwise expressly set out) and the Service Provider shall be entitled to add to any quotation and invoice the amount of any purchase, sales, value added or other tax payable.

10 Preliminary work

All preliminary work executed at the Customer's request (whether or not experimental) will be charged to the Customer.

11 Proofs and copy

(a) All corrections (including alterations in style, type or design) made by or at the request of the Customer and additional proofs made necessary thereby, and all additional costs incurred because the copy supplied by or on behalf of the Customer is not clear and/or legible shall be charged to the Customer. The Service Provider shall not be responsible for failure to rectify errors in proofs submitted to the Customer unless the same have been clearly corrected and notified to the Service Provider.

(b) Print ready files (PDFs of camera-ready copy) must be supplied with all fonts embedded (the file originator/author should do this). All graphics must be high resolution and in the correct colour. Images that need to print "to an edge" of the page must have trim marks and 3mm bleeds (that is, need to be supplied larger than the final printed size). The Service Provider will run a comprehensive, but not exhaustive, diagnostic check using commercially available software of any print ready files supplied and supply details of potential issues that may be highlighted by this process. If a file is not set up correctly, the Service Provider cannot guarantee the file's integrity when printed. Any intervention by the Service Provider will incur additional cost and potential time implications. Fonts not embedded could cause characters to display and therefore print incorrectly. DTP will be charged at an additional rate (as per estimate).

(c) Unless otherwise agreed in writing by the Service Provider, the Service Provider shall, in addition to the physical Goods, make available to the Customer, at its reasonable request, high resolution pdf files of the Goods.

12 Delivery

(a) "Delivery" shall mean whichever is the first to occur of (i) the occasion upon which the Goods are left at the address agreed in writing by the Service Provider and the Customer or (ii) the Service Provider giving notice to the Customer that the Goods are ready for collection. If the Customer is unable to accept Delivery of the Goods as provided for in this Condition 12(a), the Service Provider shall be entitled to arrange storage, and/or transport of the Goods on the Customer's behalf and at the Customer's expense. All charges for such storage, transport and any insurance shall be payable by the Customer forthwith upon demand.

(b) The Customer shall inspect the Goods immediately on Delivery and shall give notice in writing to the Service Provider within three working days of delivery as to any alleged defect(s) together with details of the defect(s). The Customer shall permit all such alleged defective Goods to be inspected by the Service Provider; failing such notice the Goods shall be deemed to be in accordance with the Contract and the Customer shall be deemed to have accepted the Goods and to be liable to pay therefor.

(c) The time for delivery shall be the time agreed in writing between the Service Provider and the Customer or (if none) a reasonable time after the date of the Acceptance provided that the Customer shall not be entitled to reject by reason of late delivery any Goods delivered after the time for delivery unless he has given to the Service Provider 21 days' written notice of his intention to do so and the Goods are not delivered within such time.

(d) The Service Provider may charge or give credit pro rata for Goods delivered in excess of or less than the quantity ordered up to a maximum of 10 per cent over or under (this excludes Envelope and Mailer constructions where maximum of 15 per cent over and under applies). Unless the Customer rejects any excess over ten per cent or 15 per cent in the case of Envelope and Mailer constructions the same shall be treated as delivered under an independent contract on the same terms and conditions as these Conditions and the Customer shall pay for the same pro rata.

right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

(d) Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

24 Remedies

Termination or expiry of the Contract for whatsoever cause shall not affect the rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry or in respect of any sum of money owing by the other.

25 Notices

Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

Any notice shall be deemed to have been received: (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second business day after posting or at the time recorded by the delivery service.

This Condition does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

26. Intellectual Property

(a) In relation to the Goods: (i) the Service Provider shall retain all Intellectual Property Rights in the Goods, excluding the Customer Materials; (ii) the Service Provider grants the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Goods (excluding the Customer Materials) for the purpose of receiving and using the Goods in its business; and (iii) the Customer may sub-license the rights granted in Condition 26(a)(ii) to third parties.

(b) In relation to the Customer Materials, the Customer: (i) and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials; and (ii) grants the Service Provider a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials for the term of the Contract for the purpose of providing the Goods to the Customer.

(c) The Service Provider: (i) warrants that the receipt, use and onward supply of the Goods by the Customer and its sub-licensees shall not infringe any rights of third parties; and (ii) shall not be in breach of the warranty at Condition 26(c)(i), to the extent the infringement arises from: the use of the Customer Materials in the development of, or the inclusion of the Customer Materials in any Goods; any modification of the Goods, other than by or on behalf of the Service Provider; and/or compliance with the Customer's specifications or instructions, where infringement could not have been avoided while complying with such specifications or instructions and provided that the Service Provider shall notify the Customer if it knows or suspects that compliance with such specification or instruction may result in infringement.

(d) The Customer warrants that the receipt and use of the Customer Materials in the performance of the Contract by the Service Provider, its agents, subcontractors or consultants shall not infringe the rights, including any Intellectual Property Rights, of any third party.

27 Law and Jurisdiction

The Contract shall be governed by and construed in accordance with the laws of England and will be subject to the non-exclusive jurisdiction of the courts of England.

28 Headings

The headings shall not affect the meaning or interpretation of these Conditions.

29 Severability

If and insofar as any part or provision of the Contract is or becomes void or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Condition shall not affect the validity and enforceability of the rest of the Contract.

- (e) Each instalment or part delivery delivered or to be delivered shall be deemed to be an independent contract subject to the terms set out herein.
- (h) The risk in the Goods shall pass to the Customer upon delivery or storage as provided in Condition 12(a).
- (i) Upon any suspension of work at the request of the Customer or delay through any default of the Customer the Service Provider shall be entitled to payment in respect of all work carried out (whether or not delivered) up to that point and all materials ordered.

13 Property

Until payment has been made in full of any sums (howsoever arising) owing from the Customer to the Service Provider:

- (a) Legal and beneficial ownership in the Goods delivered shall subject to Condition 13(b) below remain with the Service Provider and the Customer shall hold the Goods on a fiduciary basis as bailee of the Service Provider in such a way that the Goods are separate and identifiable;
- (b) Unless Condition 13(c) below is applicable the Customer may on-sell the Goods in the normal course of business in which case the Service Provider's beneficial ownership shall attach to the proceeds of sale;
- (c) If any of the events referred to in Conditions 26 (a)(i) to (iv) inclusive below occurs in relation to the Customer the Service Provider shall be entitled forthwith and without notice to repossess the Goods or to require the Customer to deliver them to the Service Provider; provided that in relation to any contract for the printing of a periodical publication and for the purposes of this Condition, each order for each relevant period shall be treated as a separate contract.

14 Liability

- (a) The Service Provider may be expected to accept instructions to undertake work on a document from members of the Customer's advisory team, as well as the Customer, and the Customer accepts liability for the charges derived from such instructions. The Service Provider's liability to the Customer in respect of (a) any breach of its contractual obligation arising under this contract: and (b) other than for fraudulent misrepresentation, any representation, statement or tortious act or omission including negligence arising under or in connection with this contract (hereafter an "**Event of Default**") shall be limited to a sum equal to the Service Provider's charges for the work or that part of it so affected provided that where the Customer shows the same to have resulted from the negligence (as defined in The Unfair Contract Terms Act 1977) of the Service Provider. The Service Provider's liability for death or personal injury shall be unlimited.

30 Entire agreement

- (a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- (c) Nothing in this Condition shall limit or exclude any liability for fraud.

31 Waiver

A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

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Invoicing Address:

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Email

Address:

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Signature:

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Date:

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