

## Francotyp-Postalia Limited Terms and Conditions of Sale

This page (together with the documents referred to on it) tells you the terms and conditions on which we supply to you any of the consumable products (including ink cartridges, ink ribbons, labels and envelopes) ("Consumables") listed on our websites at [www.fpmailing.co.uk](http://www.fpmailing.co.uk) and [www.fpmymail.co.uk](http://www.fpmymail.co.uk) (each referred to as "the site", together "the sites"). Please read these terms and conditions carefully before ordering any Consumables. You should understand that by ordering any of our Consumables you agree to be bound by these terms and conditions. Please understand that if you refuse to accept these terms and conditions, you will not be able to order any Consumables from our site or otherwise. You should print a copy of these terms and conditions for future reference.

### 1. INFORMATION ABOUT US

[www.fpmailing.co.uk](http://www.fpmailing.co.uk) and [www.fpmymail.co.uk](http://www.fpmymail.co.uk) are sites operated by Francotyp-Postalia Limited ("we", "us" or "our"). We are a limited company registered in England and Wales under company number 2445645 and have our registered office and main trading address at 74, Questor, Powdermill Lane, Dartford, Kent DA1 1EF. Our VAT number is 566261823. Our telephone number is 01322 405 000. Our email address is [enquiries@fpmailing.co.uk](mailto:enquiries@fpmailing.co.uk).

We are approved by the Royal Mail as a manufacturer and maintainer of franking machines.

### 2. YOUR STATUS

By placing an order through our site, you warrant that:

- (a) you are legally capable of entering into binding contracts;
- (b) you have full power and authority to place this order on behalf of any company, LLP or other entity for whom you act or purport to act;
- (c) you are not a consumer and you are buying the Consumables in the course of a business.

### 3. HOW THE CONTRACT IS FORMED BETWEEN YOU AND US

- 3.1 After placing an order, if we accept your order, you will receive an e-mail from us acknowledging that we have received your order and that it is being processed. That email constitutes our acceptance of your order; at that point a contract comes into existence between us on these terms ("the Contract"). We are not obliged to accept your orders.

### 4. CONSUMABLES: AVAILABILITY AND DELIVERY

- 4.1 We will use reasonable endeavours to deliver your order within 30 days of acceptance by us of your order. As part of the ordering process, you will have selected either 2<sup>nd</sup> class or next day delivery; the latter only applies if your order is accepted by us before 2pm on a Business Day and 'next day delivery' refers to next Business Day). We will use reasonable endeavours to deliver your order in accordance with those timescales, subject to available stock. However, time for

delivery is not of the essence. We have the right to deliver by instalments and each instalment shall be a separate Contract; any failure or delay in delivery of any instalment shall not entitle you to terminate that Contract or any other Contract, subject to clause 4.2.

- 4.2 If we fail to deliver within 30 days of the delivery date referred to in clause 4.1, you shall be entitled to cancel that part of the Contract which is so overdue for delivery to the extent of the Consumables that have not been delivered.
- 4.3 Delivery shall be to the place for delivery in the UK specified in your order. We have no liability to deliver outside the UK unless we have expressly agreed in writing with you the terms on which we will do so.

**5. CONSUMABLES: RISK AND TITLE**

- 5.1 The Consumables will be at your risk from the time of delivery.
- 5.2 Ownership of the Consumables will only pass to you when we receive full payment of (a) all sums due in respect of the Consumables, including delivery charges (if any) and vat and (b) all other amounts you owe us.
- 5.3 Until ownership of Consumables has passed to you, you shall (a) hold such Consumables on a fiduciary basis as our bailee, (b) store such Consumables separately from all other goods held by you so that they remain readily identifiable as our property and (c) not remove, deface or obscure any identifying mark or packaging on or relating to such Consumables.
- 5.4 If before ownership of Consumables passes to you, you become bankrupt, have a receiver, liquidator, administrative receiver, manager, administrator, trustee in bankruptcy appointed and/or make any composition or arrangement with your creditors and/or any like event occurs in relation to you and/or any steps are taken with a view to any of the foregoing, then, without limiting any other right or remedy we may have, we may at any time require you to deliver up such Consumables and, if you fail to do so within 2 days of request, enter your premises or those of any third party where the relevant Consumables are stored in order to recover them.

**6. CONSUMABLES: PRICE AND PAYMENT**

- 6.1 The price of any Consumables will be as quoted on our site at the time we accept your order, except in cases of obvious error.
- 6.2 These prices exclude VAT which will be added. Delivery is either free of charge or is chargeable by us, depending on the delivery option you selected when placing your order. If relevant delivery costs will be added to your order, at our standard charges from time to time.

- 6.3 Prices are liable to change at any time, but changes will not affect orders already accepted by us.
- 6.4 Our site contains a large number of Consumables and it is always possible that, despite our best efforts, some of the Consumables listed on our site may be incorrectly priced. We will normally verify prices as part of our acceptance procedures so that, where a Consumable's correct price is less than our stated price, we will charge the lower amount. If a Consumable's correct price is higher than the price stated on our site, we will normally, at our discretion, either (a) contact you and inform you of the higher price before accepting the order at the higher price, if you have agreed to pay the higher price, or (b) reject your order and notify you of such rejection.
- 6.5 We are under no obligation to provide the Consumable to you at any incorrect (lower) price, even after we have accepted your order, if the pricing error is obvious and unmistakable and could have reasonably been recognised by you as a mis-pricing.
- 6.6 Payment for all Consumables must be by credit or debit card or direct debit. Payment is due in full immediately we accept your order. If you fail to pay in full within 30 days after we have accepted your order, we can charge you interest on the overdue amount at 3% above the base rate from time to time of Royal Bank of Scotland plc from the due date until payment in full, before and after judgement.

## **7. CONSUMABLES OUR REFUNDS POLICY**

- 7.1 If you think a Consumable is defective, you must notify us as soon as reasonably practicable and in any event within 30 days from (and including) the date of delivery. We will then provide you with a call number; you then complete the returns form (on this site or emailed by us to you) and promptly return the Consumable to us (at your cost). We will examine the returned Consumable and let you know whether we think it is defective or not. If you have so notified us and returned the Consumable to us and if we agree that the Consumable is defective we will (in our absolute discretion and at our cost) either repair, replace or provide you with a refund. If we do not agree that the Consumable is defective we will return it to you at our cost.
- 7.2 If in our absolute discretion we agree to make a refund to you we will usually refund any money received from you using the same method originally used by you to pay for your purchase.

## **8. OUR LIABILITY**

- 8.1 We warrant to you that any Consumable purchased from us through our site is of satisfactory quality and reasonably fit for all the purposes for which Consumables of that kind are commonly supplied.
- 8.2 Our liability for losses you suffer as a result of us breaking this agreement is strictly limited to (a) the purchase price of the Consumable you purchased and (b) in the

case of loss of or damage to your tangible property as a result of our breach of this agreement £500 for each incident or series of connected incidents.

- 8.3 We do not exclude or limit in any way our liability:
- (a) for death or personal injury caused by our negligence and/or misrepresentation;
  - (b) under section 2(3) of the Consumer Protection Act 1987 and/or s12 Sale of Goods Act 1979;
  - (c) for fraud or fraudulent misrepresentation; or
  - (d) for any matter for which it would be illegal for us to exclude, or attempt to exclude, our liability.
- 8.4 We are not responsible for indirect losses which happen including (without limitation):
- (a) loss of income or revenue;
  - (b) loss of business;
  - (c) loss of profits or contracts;
  - (d) loss of anticipated savings;
  - (e) loss of data;
  - (f) waste of management or office time;

howsoever the above losses arise and whether caused by tort (including negligence), breach of contract or otherwise, and even if foreseeable.

## **9. CONSUMABLES: IMPORT DUTY**

- 9.1 If you order Consumables from our site for delivery outside the UK (and we have agreed to do that as mentioned above, clause 4.3), they may be subject to import duties and taxes which are levied when the delivery reaches the specified destination. You will be responsible for payment of any such import duties and taxes. Please note that we have no control over these charges and cannot predict their amount. Please contact your local customs office for further information before placing your order.
- 9.2 Please also note that you must comply with all applicable laws and regulations of the country for which the Consumables are destined. We will not be liable for any breach by you of any such laws.

## **10. WRITTEN COMMUNICATIONS**

Applicable laws require that some of the information or communications we send to you should be in writing. When using our site, you accept that communication with us will be mainly electronic. We will contact you by e-mail or provide you with information by posting notices on our website. For contractual purposes, you agree to this electronic means of communication and you acknowledge that all contracts, notices, information and other communications that we provide to you electronically

comply with any legal requirement that such communications be in writing. This condition does not affect your statutory rights.

## **11. NOTICES**

All notices given by you to us must be given to Francotyp-Postalia Limited at 74, Questor, Powdermill Lane, Dartford, Kent DA1 1EF or by email to our email address at [supplies@fpmailing.co.uk](mailto:supplies@fpmailing.co.uk). We may give notice to you at either the e-mail or postal address you provide to us when placing an order, or in any of the ways specified in clause 10 above. Notice will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or on the 2<sup>nd</sup> Business Day after the date of posting of any letter (excluding the date of posting). Business Day means any day other than a Saturday, Sunday or public holiday in England. In proving the service of any notice, it will be sufficient to prove, in the case of our website, that the notice was placed on the website, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

## **12. TRANSFER OF RIGHTS AND OBLIGATIONS**

- 12.1 The Contract between you and us is binding on you and us and on our respective successors and assigns. You may not transfer, assign, charge or otherwise dispose of the Contract, or any of your rights and/or obligations arising under it. We may transfer, assign, charge, sub-contract or otherwise dispose of the Contract, or any of our rights and/or obligations arising under it, at any time during the term of the Contract.

## **13. EVENTS OUTSIDE OUR CONTROL**

- 13.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under a Contract that is caused by events outside our reasonable control ("Force Majeure Event").
- 13.2 A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes without limitation the following:
- (a) strikes, lock-outs or other industrial action;
  - (b) civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
  - (c) fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;
  - (d) impossibility of the use of or delays in railways, shipping, aircraft, motor transport or other means of public or private transport;
  - (e) impossibility of the use of or interruptions to public or private telecommunications networks;
  - (f) failure or delays in supplies from third party suppliers;
  - (g) the acts, decrees, legislation, regulations or restrictions of any government.

- 13.3 Our performance under any Contract is deemed to be suspended for the period that the Force Majeure Event continues, and we will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under the Contract may be performed despite the Force Majeure Event.

**14. WAIVER**

- 14.1 If we or you fail, at any time during the term of a Contract, to insist upon strict performance obligations under the Contract, or if we or you fail to exercise any of the rights or remedies to which we or you are entitled under the Contract, this shall not constitute a waiver of such rights or remedies and shall not relieve the relevant party from compliance with such obligations. A waiver by either of us of any default shall not constitute a waiver of any subsequent default. No waiver by either of us of any of these terms and conditions shall be effective unless it is express and in writing.

**15. SEVERABILITY**

If any term or condition of a Contract is determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term or condition will to that extent be severed from the remaining terms and conditions which will continue to be valid to the fullest extent permitted by law.

**16. ENTIRE AGREEMENT**

- 16.1 These terms and conditions and any document expressly referred to in them represent the entire agreement between us in relation to the subject matter of any Contract and supersede any prior agreement, understanding or arrangement between us, whether oral or in writing. Save for the warranties set out in these terms and conditions (including in clause 8) all warranties, conditions, representations or other terms implied by statute, common law or otherwise are hereby excluded to the fullest extent permitted by law.

- 16.2 We each acknowledge that, in entering into a Contract, neither of us has relied on any representation, undertaking or promise given by the other or implied from anything said or written in negotiations between us prior to such Contract except as expressly stated in these terms and conditions.

- 16.3 Neither of us shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date of any Contract (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in these terms and conditions.

**17. OUR RIGHT TO VARY THESE TERMS AND CONDITIONS**

- 17.1 We have the right to revise and amend these terms and conditions from time to time for any reason including (without limitation) to reflect changes in market conditions affecting our business, changes in Consumables and/or our method of doing

business, changes in technology, changes in payment methods, changes in relevant laws and regulatory requirements and changes in our system's capabilities.

- 17.2 You will be subject to the terms and conditions in force at the time that you order Consumables from us, unless (a) any change to these terms and conditions is required to be made by law or governmental authority, and law or governmental authority require the change to apply to orders already placed, in which case the change will apply to orders previously placed by you (to the extent so required) or (b) if we notify you of the change to these terms and conditions before we send you our acceptance of your order and in that case we have the right to assume that you have accepted the change to the terms and conditions, unless you notify us to the contrary within seven Business Days of receipt by you of our acceptance of your order.

**18. COMPLAINTS PROCEDURE**

We aim to offer you an efficient, effective and comprehensive service. If you are dissatisfied with any aspect of our services, you should in the first instance raise the matter with our administration department who will respond within 5 Business Days. If our administration department are unable to resolve the matter to your satisfaction, the matter will be raised with a senior manager who will investigate as quickly as practicable and make reasonable efforts to find a satisfactory solution in as short a time as practicable.

Complaints should be made to: [admin@fpmailing.co.uk](mailto:admin@fpmailing.co.uk).

**19. LAW AND JURISDICTION**

Contracts for the purchase of Consumables through our site and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) will be governed by English law. Any dispute or claim arising out of or in connection with such Contracts or their formation (including non-contractual disputes or claims) shall be subject to the non-exclusive jurisdiction of the courts of England and Wales.

Francotyp-Postalia Limited

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