

# Printed Carrier Bags Shop “Terms and Conditions”

## 1. BASIS OF CONTRACT

These Conditions shall apply to all contracts for the sale of goods by the Seller to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade custom, practice or course of dealing. Each order for the sale of goods shall be deemed to be a contract when the Seller issues a written acceptance of order, or if not, on commencement of work in respect of the order.

## 2. PRICE

All orders accepted and quotations made are on the basis that if delivery is to be made in more than six months time after acceptance of order the Seller may at any time before dispatch discuss prices of such goods with the Buyer and if the Buyer and the Seller cannot in such cases agree the prices to be charged either party may on one months written notice (sent by prepaid first class letter post to the other) rescind the contract in respect of orders unfulfilled at the date of such rescission and subject thereto such goods (and where appropriate) delivery shall be charged at the prices ruling at the date of despatch and the Buyer shall pay the then ruling charges. The price of the goods is exclusive of Value Added Tax which shall be charged where appropriate at the current rate and shall be payable by the Buyer in addition.

## 3. PAYMENT

Payment is due strictly cash on delivery unless credit has been arranged then payment is 30 days from the date of invoice. The Late Payment of Commercial Debts (Interest) Act 1998, as amended and any orders made thereunder shall apply to all outstanding invoices rendered.

## 4. TIME LIMIT FOR DELIVERY

Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Seller shall not be liable for any delay in delivery of the goods that is caused by a force majeure event referred to in condition 12, or the Buyers failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the goods.

## 5. SPECIFICATION AND DRAWING SUITABILITY

(a) The Buyer shall be responsible for the contents of all plans particulars and other information supplied by it to the Seller and for any discrepancies, inconsistencies, errors or omissions therein.  
(b) The suitability of the goods is the Buyers responsibility and unless otherwise specifically stated in writing by the Seller no warranty or condition is given or implied concerning fitness for purpose for which the goods are to be used.

## 6. PRINTING AND DESIGN

In the case of printed goods the Seller is not to be responsible or liable for any errors in proofs which have been passed by the Buyer and any charges incurred by the Seller in the preparation of special tools, sketches, printing blocks, etc. shall be charged extra. The Buyers property stored or used by the Seller shall be at the Buyers risk. The Buyer warrants that the use of any trade mark copyright material or other designs supplied by the Buyer or utilised at the Buyers request will not be an infringement of the trade mark or copyright or rights of any third party and in the event of infringement will indemnify the Seller against any claim arising therefrom The Buyer shall indemnify the Seller in respect of third party rights where design is supplied by the seller. The Seller reserves the right to dispose of any artwork and printing plates if no orders there to are placed with the Seller within the preceding four years.

## 7. TOLERANCE

Although the Seller shall make reasonable efforts to supply the number and kind of goods contracted for, nevertheless the Seller shall be entitled to a tolerance of 10% in the number and size of the goods, and gauge of material agreed. In the event of the Seller supplying more goods than agreed the Buyer shall pay extra for such excess on a pro rata basis and in the event of the Seller supplying fewer goods than agreed the Buyer shall only pay for the quantity supplied, and shall consider the order complete.

## 8. DISPUTES

The Buyer shall within 14 days of delivery of goods inform the Seller in writing of any discrepancies concerning the goods. In default of such notification, the Buyer shall be deemed to have accepted the goods.

## 9. DESPATCHES BY INSTALMENTS

Every despatch of goods made by the Seller shall be deemed to have been made in respect of a contract different from other despatches of goods (notwithstanding that the Seller may have contracted to despatch all goods in one consignment) and so that:

- (a) the Buyer shall be liable to pay the Seller for the price attributable to the goods so despatched (notwithstanding that the Seller shall not have fulfilled the remaining part of any contract)
- (b) the Buyer shall not be entitled to cancel the whole or any part of any order or contract and
- (c) the Seller subject as herein provided shall remain liable to the Buyer in respect of other goods yet to be dispatched

## 10. BREACH

- (a) The Buyer will be treated as having repudiated the contract if it:
  - (i) becomes insolvent; or
  - (ii) commits a serious breach or one, which is not remedied within 7 days of being asked to do so.
- (b) The Buyer may be treated as having repudiated the contract if it:
  - (i) does not make payment when due; or
  - (ii) fails to accept delivery or give delivery instructions
- (c) If the contract is repudiated under condition 10(a) or the Seller accepts a repudiation under condition 10(b):
  - (i) all invoices sent to the Buyer must be paid immediately
  - (ii) the price of all goods not invoiced but delivered by the Seller or manufacturer or ordered for sale to the Buyer must be paid immediately.
  - (iii) the Seller will be released from all future obligations under all contracts.
- (d) The Buyer will be treated as insolvent if:
  - (i) it is a company, which has a petition for winding up or administration presented against it or passes a resolution for winding up.
  - (ii) a receiver of any of its assets is appointed.
  - (iii) it convenes a meeting of its creditors.
  - (iv) it (or any of its partners) becomes bankrupt.
  - (v) it is unable to pay its debts (defined in Ss 123 or 268 insolvency act 1986)
  - (vi) one of its creditors tries to serve on it a document purporting to be statutory

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### 11. OWNERSHIP

(a) The goods remain the Sellers property (even after delivery) until the Seller has received payment in full (in cash or cleared funds) for:

- (i) the goods; and
- (ii) any other goods that the Seller has supplied to the Buyer in respect of which payment has become due.

(b) Until title to the goods has passed to the Buyer, the Buyer shall:

- (i) hold the goods on a fiduciary basis as the Sellers bailee;
- (ii) store the goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Sellers property;
- (iii) not remove, deface or obscure any identifying mark or packaging on or relating to the goods;
- (iv) maintain the goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (v) notify the Seller immediately if it becomes subject to any of the events listed in condition 10(b); and
- (vi) give the Seller such information relating to the goods as the Seller may require from time to time but the Buyer may resell or use the goods in the ordinary course of its business.

(c) If before title to the goods passes to the Buyer, the Buyer becomes subject to any of the events listed in condition 10(b), or the Seller reasonably believes that any such event is about to happen and notifies the Buyer accordingly, then provided that the goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Seller may have, the Seller may at any time require the Buyer to deliver up the goods and, if the Buyer fails to do so promptly, enter into any premises of the Buyer or of any third party where the goods are stored in order to recover them.

(d) When the goods belong to the Buyer but are under the Sellers control then, if the Buyer becomes subject to any of the events listed in condition 10(b) or fails to pay the Seller when it should have, the Seller has (in addition to its rights under Ss 38-48 Sale of Goods Act 1979):

- (i) a lien on the goods; and
- (ii) a right of stoppage in transit; and
- (iii) a right of resale as the Buyers agent.

(e) The Seller may sue the Buyer for payments whether or not property in the goods has passed.

### 12. FORCE MAJEURE

(a) The due performance of the contract is subject to cancellation or variation by the Seller as a result of any default whatsoever on the part of the Sellers own suppliers or the inability to secure labour, materials or supplies as a result of any act of God, war, riot or civil disturbance, strike, lockout or any other labour dispute, fire, flood, drought or accident, legislation, requisitioning or other act or order by any government department, council or any other duly constituted authority, or any other cause beyond the Sellers control, in such event, no liability shall attach to the Seller by reason of cancellation or variation of any contract.

(b) Deliveries may be wholly or partially suspended and the time of such suspension to the original contract in the event of stoppage, delay or interruption of work, in the establishment of the Seller during the delivery period as a result of any of the clauses set out in subparagraph (a) or any cause whatsoever beyond the control of the Seller.

### 13. RISK AND DAMAGE IN TRANSIT

(a) From the time of despatch of the goods from the Seller to the Buyer the risk of any loss or damage to or deterioration of the goods from whatever cause shall be borne by the Buyer.

(b) If the Seller undertakes delivery of the goods it shall not be liable:

- (i) for any loss, damage, deviation, delay or detention of the goods in the course of transit, or for misdelivery or short delivery unless the Buyer gives to the Seller and to the Carrier within 3 days of receipt of the goods a written notice of the Buyers complaint;
- (ii) for non-delivery or non-arrival of the whole of any consignment of the goods or of any separate package unless the Buyer shall give to the Seller and to the Carrier a written notice thereof within 4 days of the date of notification of the despatch of the goods; and in either case the Sellers liability to the Buyer shall not exceed the contract price of the goods.

### 14. LIMITATIONS OF LAIBILITY

(a) Nothing in these Conditions shall limit or exclude the Sellers liability for:

- (i) death or personal injury caused by its negligence or the negligence of its employees, agents or subcontractors (as applicable)
- (ii) fraud or fraudulent misrepresentation;
- (iii) breach of the terms implied by S12 of the Sale of Goods Act 1979;
- (iv) defective products under the Consumer Protection Act 1987; or
- (v) any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.

(b) Subject to condition 14(a):

- (i) the Seller shall under no circumstances whatever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise for any loss of profit, or any indirect or consequential loss arising or in connection with a contract; and
- (ii) the Sellers total liability to the Buyer in respect of all other losses arising under or in connection with a contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the contract price of the goods.

### 15. STORAGE OF PRINTING PLATES

Please note that all storage of printing plates on behalf of the buyer by Printed Carrier Bags Shop is entirely at the buyer's risk.