

Terms & Conditions

STANDARD CONDITIONS OF SALE – CARLTON PACKAGING LLP

The Buyer's attention is in particular drawn to the provisions of condition 10.4. Directors of any Buyer which is a limited company and members of any Buyer which is a limited liability partnership should note the provisions of condition 17.

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this condition apply in these conditions.
Buyer: the person, firm or company who purchases the Goods from Carlton.
Carlton: Carlton Packaging LLP, Company Reg. No. OC380622, registered address 1 Michigan Drive, Tongwell, Milton Keynes, Buckinghamshire, MK15 8HQ
Conditions: the terms and conditions set out in this document;

Contract: any contract between Carlton and the Buyer for the sale and purchase of the Goods in accordance with these Conditions.
Delivery Point: the place where delivery of the Goods is to take place as specified in the Order or as mutually agreed between the parties in writing.
Goods: the goods as specified in the Order to be supplied to the Buyer by Carlton (including any part of parts of them).
Order: the Buyer's order for the Goods, as set out in the Buyer's purchase order form or the Buyers written acceptance of Carlton's quotation.
Specification: any specification for the Goods, including any related plans and drawings that is agreed in writing by the Buyer and Carlton.
A reference to a particular law or statutory provision is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

- 1.2 Words in the singular include the plural and in the plural include the singular.
1.3 A reference to one gender includes a reference to the other gender.
1.4 Condition headings do not affect the interpretation of these conditions.
1.5 A reference to writing or written includes emails and facsimile.

2. APPLICATION OF TERMS

- 2.1 These Conditions apply to the Contract 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.
2.2 These Conditions apply to all Carlton's sales and any variation to these Conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a partner for and on behalf of Carlton. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Carlton which is not set out in the Contract. Nothing in this condition shall exclude or limit Carlton's liability for fraudulent misrepresentation.
2.3 Each Order or acceptance of Carlton's quotation for Goods by the Buyer shall be deemed to be an offer by the Buyer to buy Goods in accordance with these conditions.
2.4 No Order placed by the Buyer shall be deemed to be accepted by Carlton until it is accepted by Carlton in writing at which point the Contract shall come into existence.
2.5 The Buyer shall ensure that the terms of its Order and any applicable Specification are complete and accurate.

3. DESCRIPTION

- 3.1 The Goods are described in the Order as modified by any mutually agreed Specification.
3.2 All samples, drawings, descriptive matter, specifications and advertising issued by Carlton and any descriptions or illustrations contained in Carlton's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.
3.3 Whilst Carlton will take all reasonable steps to try to match film colours, clarity, haze and slip specifications, this cannot be guaranteed and the Contract shall be deemed to have been performed by delivery of goods of the general shade and density of colour and the general clarity, haze and slip stipulated in the proof.
3.4 Carlton shall not be liable for errors in proof which have been submitted to and approved by the Buyer.
3.5 The Buyer shall indemnify Carlton against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by Carlton in connection with any claim made against Carlton for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Carlton's use of a Specification. This Clause 3.5 shall survive termination of the Contract.

4. DELIVERY

- 4.1 Unless otherwise agreed in writing by Carlton, delivery of the Goods shall take place at Carlton's place of business being 1 Michigan Drive, Tongwell, Milton Keynes MK15 8HQ (Delivery Location).
4.2 The Buyer shall take delivery of the Goods within 7 days of Carlton giving it notice that the Goods are ready for delivery.
4.3 Delivery is completed on the completion of the Buyer loading the Goods at the Delivery Location.
4.4 Any dates specified by Carlton for delivery of the Goods are intended to be an estimate and time for delivery is not of the essence and shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
4.5 Subject to the other provisions of the Conditions, Carlton shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by Carlton's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 90 days.
4.6 If for any reason the Buyer fails to take or accept (whichever is applicable) delivery of any of the Goods when they are ready for delivery or, if Carlton is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:
(a) Risk in the Goods shall pass to the Buyer (including for loss or damage caused by Carlton's negligence);
(b) The Goods shall be deemed to have been delivered at [9.00 am] on the [eighth] Business Day after the day on which Carlton notified the Buyer that the Goods were ready; and
(c) Carlton may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
If Carlton agrees to deliver the Goods to the Buyer in accordance with clause 4.1, the Buyer shall provide at its expense any adequate and appropriate equipment and manual labour which in Carlton's opinion is reasonably required for unloading the Goods at the Delivery Point.
4.7 If Carlton delivers to the Buyer a quantity of Goods of up to 10% more or less than the quantity specified in the Contract Order or Specification (whichever is applicable), the Buyer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and on receipt of notice from the Buyer that the wrong quantity of Goods was delivered, a pro rata adjustment shall be made to the Order invoice.
4.8 Carlton cannot guarantee that the dimensions of the Goods will be precisely as specified in the Contract, Order or Specification (whichever is applicable) and the Buyer shall accept the Goods provided:
(a) In the case of film gauge, the thickness is within plus or minus 10% of that specified
(b) In all other cases, the dimensions are within plus or minus 5% of that specified.
4.9 Carlton may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with provisions of the Contract, Order or Specification whichever is applicable.
4.10 Each instalment shall be deemed a separate contract and no cancellation or termination of any one Contract relating to any instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment.

5. NON-DELIVERY

- 5.1 The quantity of any consignment of Goods as recorded by Carlton upon despatch from Carlton's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.
5.2 Goods will be deemed to have been accepted by the Buyer on delivery and delivery notes or signatures qualified by 'unchecked' will be taken that the delivery details are as the delivery note states unless Carlton is notified in accordance with 5.4.
5.3 If [14] days after the day on which Carlton notifies the Buyer that the Goods are ready for collection the Buyer has not collected them, Carlton may resell or otherwise dispose of part or all of the Goods.
5.4 Carlton shall not be liable for any non-delivery of Goods unless the Buyer gives written notice to Carlton of the non-delivery within 7 days of the date when the Goods would in the ordinary course of events have been received.
5.5 Any liability of Carlton for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

6. RISK/TITLE

- 6.1 The Goods are at the risk of the Buyer from the time of delivery.
6.2 Subject to 6.5 title of the Goods shall not pass to the Buyer until Carlton has received in full (in cash or cleared funds) all sums due to it in respect of:
(a) The Goods; and
(b) All other sums which are or which become due to Carlton from the Buyer on any account
In which case title to the Goods shall pass at the time for payment of all sums.
6.3 Until title of the Goods has passed to the Buyer, the Buyer shall:
(a) Hold the Goods on a fiduciary basis as Carlton's bailee;
(b) Store the Goods (at no cost to Carlton) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as Carlton's property;
(c) Not remove, destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
(d) Maintain the Goods in satisfactory condition and keep them insured on Carlton's behalf for their full price against all risks from the date of delivery to the reasonable satisfaction of Carlton. On request the Buyer shall produce the policy of insurance to Carlton.
(e) Notify Carlton immediately if it becomes subject to any of the events listed in condition 7.
(f) Give Carlton such information relating to the Goods as Carlton may require from time to time.
6.4 Subject to condition 6.5 the Buyer may resell or use the Goods before title has passed to it solely on the following conditions:
(a) Any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
(b) The Buyer shall deal as principal when making such a sale.
(c) Title to the Goods shall pass from Carlton to the Buyer immediately before the time at which resale by the Buyer occurs.
6.5 If before title to the Goods passes to the Buyer the Buyer becomes subject to any of the events listed in condition 7, then, without limiting any other right or remedy Carlton may have:
(a) the Buyer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
(b) Carlton may at any time;
(i) require the Buyer to deliver up all Goods in its possession that have not been resold or irrevocably incorporated into another product; and
(ii) if the Buyer fails to do so promptly, enter any premises of the Buyer or of any property where the Goods are stored in order to remove them.

7. Termination

- 7.1 Without limiting its other rights or remedies, Carlton may terminate this Contract with immediate effect by giving written notice to the Buyer if:
(a) The Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator, administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolutions is passed or a petition presented to any court of the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or
(b) The Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between Carlton and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or The buyer ceases to trade; or
(c) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
(d) the Buyer's financial position deteriorates to such an extent that in Carlton's opinion the Buyer's capability to adequately fulfill its obligations under the Contract has been placed in jeopardy; or
(e) The Buyer encumbers or in any way charges any of the Goods.
7.2 Without limiting its other rights or remedies, Carlton may suspend provision of the Goods under the Contract or any other contract between the Buyer and Carlton if the Buyer becomes subject to any of the events listed in Clause 7.1(a) to Clause 7.1(e), or Carlton reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under this Contract on the due date for payment.
7.3 Without limiting its other rights or remedies, Carlton may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under the Contract on the due date for payment.
7.4 Carlton shall be entitled to recover payment for the Goods notwithstanding that title of any of the Goods has not passed from Carlton.
7.5 The Buyer grants Carlton, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.
7.6 The Buyer warrants that when similar goods are purchased from Carlton on separate orders, the Buyer will operate a stock rotation system such that all goods held are those delivered against the most recent orders for those goods.
7.7 In addition to any right of lien to which Carlton may by law be entitled, Carlton shall (in the event of the Buyer's insolvency) be entitled to a general lien on all goods of Carlton in the Buyer's possession (although such goods or some of them may have been paid for) for the unpaid price of any other goods sold and delivered to the Buyer by Carlton under the same or any other contract.
7.8 On termination of the Contract, however caused, Carlton's (but not the Buyer's) rights contained in this condition 7 shall remain in effect.

8 PRICE

- 8.1 Unless otherwise agreed by Carlton in writing, the price for the Goods shall be the price set out in Carlton's price list published on the date of delivery or deemed delivery as confirmed in writing at the time of order.
- 8.2 Unless otherwise agreed in writing by Carlton, the price for the Goods shall be exclusive of
- (a) any value added tax, which the Buyer shall additionally be liable to pay to Carlton at the prevailing rate, subject to a receipt of a valid value added tax invoice;
- (b) all costs and charges in relation to packaging, loading, unloading, carriage and insurance, which shall be invoiced to the Buyer when it is due to pay for the Goods.
- 8.3 Carlton may, by giving notice to the Buyer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- a) any factor beyond Carlton's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- b) any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
- c) any delay caused by any instructions of the Buyer or failure of the Buyer to give Carlton adequate or accurate information or instructions.

9. PAYMENT

- 9.1 Carlton may invoice the Buyer for the Goods on or at any time after the completion of delivery.
- 9.2 Unless otherwise agreed in writing the Buyer shall pay the invoice in full and in cleared funds by the 30th day of the month following the month the invoice was dated. No payment shall be deemed to have been received until Carlton has received cleared funds.
- 9.3 Time for payment shall be of the essence.
- 9.4 If the Buyer fails to make any payment due to Carlton under the Contract by the due date for payment, then the Buyer shall pay interest on the overdue amount at the rate of 8% per annum above National Westminster PLC's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Buyer shall pay the interest together with the overdue amount.
- 9.5 The Buyer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Carlton may at any time, without limiting any other rights or remedies it may have and without notice, set off any amount owing to it by the Buyer against any amount payable by Carlton to the Buyer.
- 9.6 All payments payable to Carlton under the Contract shall become due immediately on its termination despite any other provision.
- 9.7 Carlton may claim compensation for any monies that are not paid on the due date in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

10. QUALITY

- 10.1 Carlton warrants that (subject to the other provisions of these conditions) upon delivery the Goods shall be free from material defects in design, material and workmanship and be of satisfactory quality within the meaning of the Sale of Goods Act 1979. No warranty is given however that the Goods will be fit for the Buyer's purpose – the Buyer must satisfy itself that the Goods are fit for any purpose the Buyer intends to use them for.
- 10.2 Carlton shall not be liable for a breach of the warranty in condition 10.1 nor shall Carlton be liable for any shortfall in quantity or any other defect in the Goods unless:
- (a) The Buyer gives written notice of the defect to Carlton, and, if the defect is as a result of damage in transit to the carrier, within a reasonable time of discovery; and
- (b) Carlton is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by Carlton) returns such Goods to Carlton's place of business at Carlton's cost for the examination to take place there.
- 10.3 Carlton shall not be liable for a breach of the warranty in condition 10.1 or for any other defect in the Goods if:
- 10.3.1 The Buyer makes any further use of such Goods after giving such notice; or
- 10.3.2 The defect arises because the Buyer failed to follow Carlton's oral or written instructions as to the storage, installation, commissioning, use and maintenance of the Goods or (if there are none) good trade practice regarding the same; or
- 10.3.3 The Buyer alters or repairs such Goods without the written consent of Carlton; or
- 10.3.4 The defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions;
- 10.3.5 The Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 10.4 Subject to condition 10.2, and condition 10.3, if any of the Goods do not conform with condition 10.1, Carlton shall at its option repair or replace such defective Goods or refund the price of such defective Goods at the pro rata contract rate provided that, if Carlton so requests, the Buyer shall, at Carlton's expense, return the Goods or the part of such Goods which is defective to Carlton.
- 10.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 10.6 These conditions shall apply to any repaired or replacement Goods supplied by Carlton.

11. LIMITATION OF LIABILITY

- 11.1 Carlton shall under no circumstances whatsoever 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 under or in connection with the Contract; and
- 11.2 Carlton's total liability to the buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed of the total price of the Goods ordered under the Contract.
- 11.3 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 11.4 Nothing in these conditions excludes or limits the liability of Carlton:
- (a) For death or personal injury caused by Carlton's negligence; or
- (b) Defective products under section 2 (3), Consumer Protection Act 1987; or
- (c) Breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- (d) For any matter for which it would be illegal for Carlton to exclude or attempt to exclude its liability; or
- (e) For fraud or fraudulent misrepresentation.

12. INDEMNITY

- 12.1 The Buyer shall indemnify Carlton against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) (each a Claim) suffered or incurred by Carlton arising out of or in connection with any claim made against the Buyer for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with names, words, designs or logos printed or displayed on Goods at the request of the Buyer.

13. ASSIGNMENT

- 13.1 Carlton may assign the Contract or any part of it to any person, firm or company.
- 13.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of Carlton.

14. FORCE MAJEURE

- Carlton reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of Carlton including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 90 days, the Buyer shall be entitled to give notice in writing to Carlton to terminate the Contract.

15. GENERAL

- 15.1 Each right or remedy of Carlton under the Contract is without prejudice to any other right or remedy of Carlton whether under the contract or not.
- 15.2 If any provision of the contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provision of the Contract and the remainder of such provision shall continue in full force and effect.
- 15.3 Failure or delay by Carlton in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 15.4 Any waiver by Carlton or any breach of, or any default under, any provision of the contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 15.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 15.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties subject to the exclusive jurisdiction of the English courts.
- 15.7 Please note that all of our calls are recorded for training and monitoring. Carlton can only use the data for the explicit purpose for which it was gathered, data cannot be released to third parties and the customer has legal right to access any data held about them. Carlton will keep recordings for 3 months.

16. COMMUNICATIONS

- 16.1 All communications between the parties about the Contract shall be in writing and delivered either by hand, email or sent by pre-paid first class post:
- (a) (in case of communications to Carlton) to Carlton Packaging LLP at Bridge House, Ward Road, Blechley, Milton Keynes, Buckinghamshire, MK1 1JA, or such changed address as shall be notified to the Buyer by Carlton; or
- (b) (in the case of communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the contract or such other address as shall be notified to Carlton by the Buyer.
- 16.2 Communications shall be deemed to have been received:
- (a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- (b) if delivered by hand, on the day of delivery; or
- (c) if sent via email the date and time the email was received
- 16.3 Communications addressed to Carlton shall be marked for the attention of the Partners.

17. PERSONAL LIABILITY OF DIRECTORS/MEMBERS OF BUYER

- 17.1 Carlton only enters into contract with limited companies or limited liability partnerships (LLPs) on the understanding that the directors of the limited companies or members of the LLPs will personally guarantee payment by the company or (as the case may be) the LLP of Carlton's invoices for the Goods.
- 17.2 By allowing the Buyer to enter into the Contract, all directors of any Buyer which is a limited company or (as the case may be) all members of any buyer which is a LLP jointly and severally personally guarantee payment to Carlton of all sums due to Carlton under the terms of the Contract.
- 17.3 The personal guarantees provided for in condition 17.2 will be enforceable against the directors or (as the case may be) members of the buyer notwithstanding any delay in collection or additional time or indulgence which Carlton may give the Buyer in relation to payment.

18. BESPOKE PRODUCTS AND CALL OFF ORDERS

- 18.1 In the event of products produced to the Buyer's specification such as, but not restricted to, printed or non-stock size merchandise and in the event of standard merchandise ordered by the Buyer for stocking at Carlton where this stock is to be called off for delivery as required by the Buyer:
- a) Cancellation of all or part of the order may be subject to a charge up to 100% of the order value;
- b) Carlton reserves the right to deliver and invoice the balance of a call off order at any time and may do so if the order is outstanding for more than 6 months.

Declaration by Applicant:

To be signed by DIRECTOR, COMPANY SECRETARY, PROPRIETOR, or PARTNER.

I, being an authorised officer of this Company, hereby apply for a credit account with CARLTON PACKAGING LLP. I agree that payment of all sums due to CARLTON PACKAGING LLP will be made within your stated credit terms, and that title of goods supplied to the Company CARLTON PACKAGING LLP shall remain with CARLTON PACKAGING LLP until payment by this Company of the total purchase price and of all other sums due to CARLTON PACKAGING LLP from this Company. I have read and agreed to the Standard Conditions of Trade laid down by CARLTON PACKAGING LLP

SIGNED: _____

PRINT NAME: _____

POSITION: _____

DATE: _____

By signing here you are agreeing to both T&C pages:

Section 1 to Section 18.