

Save as otherwise agreed in writing between the parties, the following standard Conditions of Sale (**Conditions**) shall govern this transaction to the exclusion of any other express or implied terms and conditions, including any terms and conditions to which the order of the customer may purport to be subject. In these Conditions:

- **"Contract"** means the Customer's purchase order once accepted in writing by the Seller incorporating these Conditions;
- **"Seller"** means Simply Cartons Limited;
- **"Customer"** means the party placing an order for goods with the Seller.

1. QUOTATIONS:

Quotations are subject to the Seller's written confirmation on receipt of purchase orders from the Customer and all prices are exclusive of VAT.

2. PAYMENT TERMS:

- 2.1 The Seller may issue invoices upon acceptance of the purchase order.
- 2.2 Payment terms are within 30 days following the earlier of delivery to the Customer or collection of the goods by someone on the Customer's behalf unless an alternative period has been agreed in writing between the parties. Failure to pay within such time period will result in the Seller having the right to charge interest on the overdue sum at the rate of 4% above the base lending rate of Natwest Bank plc from the due date for payment until payment.
- 2.3 In the case of Contracts involving more than one delivery, if default is made in payment for any one delivery, the Seller may at its option treat the entire Contract as repudiated by the Customer and claim damages accordingly.
- 2.4 A Contract once formed cannot be cancelled except by the written agreement of the Seller and then only on terms which fully indemnify the Seller against all costs incurred.

3. PRELIMINARY WORK:

Work carried out, whether experimentally or otherwise, at the Customer's request will be charged.

4. DELIVERY:

- 4.1 Where a Contract provides for a single delivery without specifying a date, goods shall be delivered by the Seller within 14 days of their being ready.
- 4.2 Where a Contract provides for deferred deliveries without specifying all the delivery dates, all the deliveries shall be made within three months from the date of manufacture of the Goods unless an alternative period has been agreed in writing between the parties.
- 4.3 Any dates quoted for delivery are approximate only and the time of delivery is not of the essence.
- 4.4 In the event of failure to accept any delivery or failure to call off in accordance with an agreed delivery schedule, that delivery shall be immediately invoiced, and storage costs charged to the Customer's account, the goods being held at the Customer's risk.
- 4.5 Goods stored in accordance with clause 4.4 will be held for a maximum of three months before the Seller may resell or otherwise dispose of all or part of them. Where goods are resold, the Seller shall refund any sum paid by the Customer for such goods, less any shortfall in the price of the goods and the Seller's costs of storage and sale.
- 4.6 Each delivery shall constitute a separate contract and any failure or defect in any one delivery shall not invalidate the Contract as to the remaining deliveries.
- 4.7 The Seller shall have the option of revising an agreed delivery date or dates at any time if circumstances beyond the Seller's control prevent it keeping to the originally agreed date or dates.
- 4.8 Subject to clauses 4.9 and 15, the Seller's liability for failure to comply with the agreed delivery dates (as varied where necessary in accordance with this clause) or failure to deliver the goods shall be limited to the reimbursement to the Customer of the actual loss incurred by the Customer, but in no case exceeding the value of the goods which are the subject of the late delivery.
- 4.9 The Seller shall not be liable under clause 4.8 for:
 - 4.9.1 any event covered by clause 12; or
 - 4.9.2 any loss of the Customer caused by changes to the Customer's order or delivery requirements or failure by the Customer to provide the Seller with adequate delivery or other relevant instructions; or
 - 4.9.3 any loss of the Customer caused by any transportation service engaged to transport the goods.

5. VARIATIONS:

A shortage or surplus not exceeding 10 per cent will be considered due execution of any Contract and may be charged pro rata except as otherwise specifically agreed in writing by the parties. Where an order provides for delivery by instalments then, for the purpose of this clause, these instalments will be aggregated.

6. SKETCHES:

All sketches, origination, samples, art and design work and any and all intellectual property rights in the same, remain the property of the Seller.

7. CUSTOMER'S REQUIREMENTS PRINTING AND CONSTRUCTION:

- 7.1 Alteration from original copy on and after first proof, including alterations in style of construction, will be charged extra. Proofs of all work may be submitted for Customer's approval and no responsibility will be accepted for any errors in proofs which are so submitted.
- 7.2 The Customer acknowledges that the Seller does not check and has no responsibility for artwork.
- 7.3 The Seller shall not be required to print any matter which in its opinion is or may be of an illegal or libellous nature or an infringement of the proprietary or other rights of any third party and reserves the right to make any amendments to the specification of the goods required by any applicable statutory or regulatory requirements.
- 7.4 The Customer indemnifies the Seller against any and all claims, costs and expenses (including any amounts paid on lawyers' advice in settlement of any claim) arising out of any libellous matter or any infringement of copyright, patent, design or any other proprietary or personal rights contained in any designs and/or material supplied by the Customer.

8. CLAIMS:

Complaints or claims will only be entertained if lodged by the Customer in writing within thirty days of receipt of goods by it, or if related to the transport of the goods within seven days of delivery to enable the Seller to comply with the time limit and procedure of the carriers by whom the goods were transported. The return of goods will not be accepted unless the Seller or its representative shall first have the opportunity of examining the same.

9. DEFECTIVE WORK:

- 9.1 The Seller shall have no liability for any defect arising as a result of:
 - 9.1.1 the Seller following any drawing, design or specification supplied by the Customer; or
 - 9.1.2 the goods differing from any specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 9.2 Where work is defective for any reason including negligence, the Seller's liability (if any) shall be limited to rectifying such defect. In rectifying any defect, the Seller may, at its option, either replace the defective goods, or remedy the defect, or reimburse the cost of the goods by making payment or issuing a credit note.

10. PRICE VARIATION:

At the Seller's discretion, the price is subject to revision in the event of any increase or decrease in the Seller's costs between the date of confirmation of the order and the date of delivery to the Customer.

11. MATERIALS:

- 11.1 The Contract is not a contract of sale by sample. Any proofs, samples or drawings produced by the Seller are produced for the sole purpose of giving an approximate idea of the goods referred to **No table of figures entries found.** Finished goods may vary in, for example (but not limited to) size, thickness and colour from any samples submitted.

11.2 Customer's property when supplied will be held at Customer's risk.

11.3 The Seller is not required to return any property supplied by the Customer.

11.4 The Seller may reject any paper, plates or other materials supplied or specified by the Customer for purchase or use which appear to the Seller to be unsuitable and the Seller may charge the Customer additional costs if materials supplied by the Customer are found to be unsuitable during production.

11.5 Where materials are so supplied or specified, responsibility for defective work will not be accepted by the Seller unless this is due to its failure to use reasonable skill and care.

11.6 Where the Customer supplies materials to the Supplier, then quantities of materials must be adequate to cover normal spoilage.

12. FORCE MAJEURE:

The Seller shall not be liable for any delay or failure in performing its obligations under any Contract as a result of any reasons beyond its reasonable control including but not limited to any Act of God, war, strikes, lock-outs, factory shut down or closure, fire, flood, drought, tempest, national or public holiday anywhere in the world, and/or any inability by the Seller to procure materials, articles, transportation or other services required for the performance of the Contract.

13. OWNERSHIP OF GOODS:

13.1 Goods supplied under any Contract shall remain the sole and absolute property of the Seller until such time as the Customer has paid to the Seller the agreed price for the goods together with the full price of any other goods the subject of any other contract between the parties.

13.2 Goods supplied by the Seller shall be at the Customer's risk immediately on delivery of the goods to the Customer or into the custody of a person on the Customer's behalf whichever is the sooner (or earlier in accordance with clause 4.4) and the Customer must be insured accordingly.

13.3 The Customer's right to the possession of the goods shall cease if it, not being a company, commits an act of bankruptcy or if it, being a company, does anything or fails to do anything which would entitle a receiver or an administrator to take possession of any assets or which would entitle any person to present a petition for winding up or passes a resolution for its winding up.

13.4 The Customer agrees that the Seller may for the purpose of recovery of its goods enter upon any premises where they are stored, or where they are reasonably thought to be stored, and may repossess the same.

14. INSOLVENCY:

If the Customer ceases to pay its debts in the ordinary course of business or cannot in the reasonable opinion of the Seller pay its debts as they become due or being a company is deemed to be unable to pay its debts or has a winding-up petition issued against it or has a receiver appointed over all or any part of its assets or has an administrator appointed or being a person commits an act of bankruptcy or has a bankruptcy petition issued against it, the Seller without prejudice to other remedies shall:

14.1 have the right to suspend work under any contract or any other work for the Customer and be entitled to charge for work already carried out (whether completed or not) and materials purchased for the Customer, such charge to be a debt immediately due to the Seller, and

14.2 in respect of all unpaid debts due from the Customer, have a general lien on all goods and property in its possession (whether worked on or not), including property provided by the Customer for the performance of any Contract, and shall be entitled on the expiration of 14 days prior written notice to dispose of such goods or property in such manner and at such a price as it thinks fit and apply the proceeds towards such debts.

15. LIABILITY:

15.1 The Seller shall have no liability to the Customer for any:

15.1.1 expenses, loss of profits and/or damage to goodwill;

15.1.2 pure economic and/or other similar losses;

(a) special damages;

(b) aggravated, punitive and/or exemplary damages;

15.1.3 loss of and loss of use of and/or corruption of data;

(a) business interruption, loss of business, loss of contracts, loss of opportunity and/or production; and/or

(b) consequential losses and/or indirect losses.

15.2 The Seller's total liability to the Customer in connection with this Contract shall not exceed the amount paid by the Customer to the Seller under this Contract.

15.3 Each of the limitations and/or exclusions in this Contract shall be deemed to be repeated and apply as a separate provision for each of:

15.3.1 Liability in contract (including fundamental breach);

15.3.2 Liability in tort (including negligence);

(a) Liability for breach of statutory duty; and

(b) Liability for breach of Common Law and/or under any other legal basis;

except that the Clause above a placing financial cap on the Seller's liability shall apply once in respect of all of the said types of liability.

15.4 Nothing in this Contract shall exclude or limit a party's liability for death or personal injury due to its negligence or any liability which is due to its fraud or any other liability which it is not permitted to exclude or limit as a matter of law.

15.5 All warranties, terms, conditions and duties implied by law relating to fitness, quality or adequacy are excluded to the fullest extent permitted by law.

16. GENERAL CONDITIONS:

16.1 Any notice under this Contract shall be in writing and shall be deemed to have been duly given if delivered to the Customer at the address set out on its purchase order and if delivered to the Seller at its registered office or such other address as that party may from time to time notify in writing and shall be deemed to have been served if sent by registered post 48 hours after posting.

16.2 This Contract (being the Customer's accepted purchase order plus these Conditions) contains the whole agreement between the parties and it supersedes any prior written or oral agreement between them and is not affected by any other promise, representation, warranty, usage, custom or course of dealing. The parties confirm that they have not entered into this Contract on the basis of any representation that is not expressly incorporated into this Contract. Nothing in this Contract shall exclude liability for any fraudulent statement or act made prior to the date of this Contract.

16.3 No waiver by the Seller of any breach of this Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision.

16.4 The invalidity, illegality or unenforceability of any of the provisions of this Contract shall not affect the validity, legality or enforceability of the remaining provisions of this Contract.

16.5 The Customer shall not assign its interest in this Contract (or any part) without the Seller's written consent. The Seller may assign its interest in this Contract (or any part) without the Customer's written consent.

16.6 None of the terms and conditions of this Contract shall be enforceable by any person who is not a party to it.

17. LAW:

These Conditions and all other express terms of this Contract shall be governed by and construed in accordance with the laws of England and the parties agree to submit to the non-exclusive jurisdiction of the English courts.