



These terms and conditions of sale (Conditions) comprise all the terms of the contract between the buyer, the person or business who requests from F C Carton's Limited the goods and/ or services described in the specification and/ or order form

1 Definitions

In these conditions, unless the context requires otherwise:

'Customer' means the person who buys or agrees to buy the Goods from the Company

'the Company' means FC Cartons Limited

'Conditions' means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Company

'Goods' means the articles which the Customer agrees to buy from the Company or any article produced by the Company from articles supplied by the Customer

'Services' means the work undertaken by the Company for the Customer

'Price' means the price for the Goods and/ or Services excluding carriage, packing, insurance and VAT

'Materials supplied' means customers own product on which the company will carry out a service

2 Conditions applicable

2.1 These Conditions shall constitute the entire agreement and understanding between the parties with respect to all matters which are referred to and shall supersede any previous agreement(s) between the parties in relation to the matters referred to in this agreement and shall apply to all contracts for the sale of Goods and/ or Services by the Company to the Customer to the exclusion of all other terms and conditions including any terms or conditions which the Customer may attempt to apply under any purchase order confirmation of order or similar document. All orders for Goods and/ or Services shall be deemed to be an offer by the Customer to purchase Goods and/ or Services pursuant to these Conditions.

2.2 Collection of the Goods or acceptance of delivery shall be deemed conclusive evidence of the Customer's acceptance of these Conditions.

2.3 The Customer warrants that it has not relied on any representations made by or on behalf of the Company or upon any descriptions, illustrations or specifications contained in any catalogues and publicity material produced by or on behalf of the Contractor all of which are only intended to convey a general idea of the products and services mentioned in them.

2.4 Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Company.

3 The contract between us

3.1 A legally binding contract shall come into effect when:

(a) we accept your verbal order; or

(b) we accept your repeat order; or

(c) we confirm in writing that we accept your written order; or

(d) you accept a sample we have produced to your specification

3.2 Each order from the Customer shall constitute a separate contract subject to these Conditions.

3.3 Where the Goods are specified to be produced in stages or the services are to be supplied in stages each stage shall constitute a separate contract and failure by the Company to complete a stage shall not constitute a repudiatory breach of the original contract.

4 The Goods and/ or Services

4.1 The quantity and description of the Goods and/ or Services shall be as set out in the Customer's specification or in accordance with the Customer's sample or the Company's confirmation of order.

4.2 The Company may from time to time make changes in the specification of the Goods and/ or Services which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality or fitness for purpose of the Goods and/ or Services.

4.3 Any contractual description of the Goods and/ or Services by the Company relates to the identity of the Goods and/ or Services but only if it relates to a central characteristic of the Goods and/ or Services or to a substantial ingredient in their identity.

4.4 The Customer shall be wholly responsible for ensuring that the correct quantity and type of materials are supplied to the Company where the Customer is to supply the materials to be processed at its own cost and that when calculating the quantity to be provided an allowance of 10% shall be supplied to account for wastage normally incurred in the manufacturing procedure.

4.5 An additional allowance for wastage of 3% in addition to the 10% in 4.4 above shall be included in the materials supplied by the Customer where there are more than one manufacturing process.

4.6 The Customer shall ensure that any materials supplied under clause 4.4 of these terms are compatible and safe for use with the Company's machines and that the materials are supplied flat and free of defects. The Customer shall also ensure that the surface of any material supplied shall have a rub resistant surface to avoid being marked by the processes to be applied.

4.7 The Company shall be entitled to reject any materials that do not conform with clause 4.6.

4.8 The Customer shall be liable to compensate the Company for slow running caused by any of the Customer's printed materials and/ or print supplied in breach of these terms and in particular 4.6 at the rate of £200 per hour for each additional hour or part thereof which is incurred due to the quality.

4.9 The Company will use all reasonable endeavours to achieve production or delivery by any specified or requested date, but each such date is to be treated as an estimate only and time shall not be of the essence.

4.10 Where the Company has agreed to pre book the Customer's work to meet a Customer's delivery schedule and is prevented from working to that schedule by the fault of the Customer the Company shall not be liable to the Customer and shall be entitled to claim a sum in respect of downtime at the rate of £200.00p Per hour

5 Price and payment

5.1 The prices payable for goods that you order are as set out in the Order or in accordance with the Company's published rates. The Price is exclusive of VAT which shall be due at the rate applicable on the date of the Company's invoice.

5.2 Any quotation issued by us may be withdrawn or varied at any time prior to acceptance.

5.3 Unless otherwise specified any price quoted by us shall be valid and capable of acceptance by you within 30 days following the date of issue.

5.4 Payment of the Price and VAT shall be due within 30 days of the date of the invoice which may be submitted at any time after the collection of the goods. Time for payment shall be of the essence.

5.5 Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 5% above HSBC Bank plc's base rate from time to time in force and shall accrue at such a rate after as well as before any judgment.

5.6 Where the Company is unable to complete the full quantity of Goods and/ or Services, the Company shall be entitled to give notice ('Shortfall Notice') and request payment for the Goods and/ or Services actually provided and shall at its option make up any shortfall as soon as reasonably practicable provided sufficient materials are provided by the Customer under clause 4.4 of these Terms. Upon delivery of the shortfall the Company shall be entitled to invoice the Customer for the outstanding balance of the price PROVIDED THAT the Customer shall have the option after any such Shortfall Notice to transfer the balance of the contract to a third party but there shall be no future or other liability of the Company if this option is chosen.

5.7 Without prejudice to all or any rights the company may have at common law the company has the following rights in the event of non-payment or otherwise as set out below

5.7.1 Where the Company has supplied materials the company has a general and particular lien over Goods made from such materials for all claims and money owing by the Customer to the Company.

5.7.2 In the alternative the Company shall have a general and particular right of retention in respect of any materials or Goods made with the Customer's materials in respect of any outstanding sums owed by the Customer.

5.7.3 Until the contract price has been received, during the currency of the said lien or right of retention, the Company is entitled to be paid storage charges at the same rate as under the agreement in force prior to the imposition of charges. If the agreement has been terminated, the relevant rate at which the storage charges will be payable will be that payable immediately prior to termination.

5.7.4 The Company will notify the Customer in writing that it intends to sell any goods held under a lien alternatively a right of retention. If the Customer fails to pay the outstanding sum claimed by the Company within 30 days of receipt of the notice then the Company shall be entitled to sell the goods without further contact with the Customer.

6 Right for you to cancel your contract.

6.1 The Customer may not cancel your contract without the express written agreement of the Company and provided that the Customer agrees to indemnify the Company against any loss arising from such cancellation.

7 Cancellation by the Company

7.1 The Company reserves the right to cancel any contract if:

7.1.1 the Company has insufficient stock to deliver the Goods and/ or Services ordered

7.1.2 one or more of the Goods and/ or Services ordered was listed at an incorrect price due to a typographical error or an error in the pricing information received by the Company from its suppliers.

7.1.3 it is not possible to make the Goods to the specification.

7.1.4 the Customer fails to supply or supply in good time materials required for the provision of the services or fails to supply an adequate specification or materials of satisfactory quality and fitness in accordance with clause 12.5 of these terms.

7.2 If we do cancel your contract where this is not the fault of the Customer we will notify you in writing and will re-credit to your account any sum received from you as soon as possible but in any event within 30 days of cancellation subject to a reasonable deduction for costs and charges incurred up to and including the date of cancellation, calculated proportionately by reference to the contract Price. We will not be obliged to offer any additional compensation.

8 Acceptance of the Goods and/ or Services

8.1 The Customer shall be deemed to have accepted the Goods 24 hours after collection from the Company or delivery to their Customer.

8.2 After acceptance the Customer shall not be entitled to reject Goods which are not in accordance with the contract

9 Collection and Delivery of goods

- 9.1 The Customer shall arrange for the collection and delivery of the Goods to and from the Company's premises unless otherwise agreed in accordance with clause 9.2
- 9.2 The Company may deliver the Goods to the Customer's premises at the request of the Customer subject to the Customer paying the reasonable cost of such delivery
- 9.3 Collection shall take place within 7 days of the Company notifying the Customer that the Goods are ready for collection.
- 9.4 If the customer fails to collect the Goods within the time specified by clause 9.3 then the Company may charge the customer the reasonable costs of storage, insurance and handling.
- 9.5 Unless the Customer specifies for wastage to be returned on completion of the order, all waste will be disposed of using a Recycling Waste Management system- details can be obtained if required.
- 10 Title and risk**
- 10.1 Risk shall pass on collection or delivery of the Goods or if the Customer fails to collect the Goods risk shall pass on the date arranged for collection of the Goods.
- 10.2 Where any materials have been supplied by the Company title to such materials will remain with the Company until payment in full is received.
- 11 Liability**
- 11.1 The following provisions set out the entire liability of the Company (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Customer in respect of:
- 11.1.1 any breach of this agreement
- 11.1.2 any representation, statement or tortious act or omission, including negligence, arising under or in connection with this agreement
- 11.2 All warranties, conditions and other terms implied by statute or common law (except for the conditions implied by Section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from this agreement.
- 11.3 Nothing in this agreement excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or for fraud or fraudulent misrepresentation.
- 11.4 Subject to clause 11.2 and 11.3:
The Company's total liability for direct loss or damage in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or failure to perform this agreement shall be limited to the contract price; and the Company shall not be liable to the Customer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise (in each case whether direct, indirect or consequential), or for any costs expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with this agreement.
- 11.5 The Company accepts no liability whatsoever for any defect in the Goods and/ or Services supplied caused by a fault of whatever nature in the Customer's specification and/ or design or caused by any materials supplied by the Customer.
- 11.6 At the Company's option if the Goods and/ or Services do not comply with the specification or are otherwise not supplied in accordance with contract in circumstances that are not the fault of the Customer under these Conditions or otherwise the Company shall be free to offer replacement Goods and/ or Services at its own cost SUBJECT to written notification of non-compliance within 7 days of delivery or collection. If such replacement Goods and/ or Services are offered this shall be taken as the Company's entire liability for breach of contract or otherwise howsoever arising. If no such notification of defects or other alleged breach of contract or liability of whatever nature arising from the contract is received in writing within 7 days of collection or delivery no claims by the Customer will be valid.
- 11.7 The Company accepts no responsibility for any loss, delay and damage howsoever caused to any goods or articles during delivery to and collection from the Company's premises or unloading and loading of the goods unless caused by the negligence of the Company or its employees.
- 11.8 The Company accepts no liability whatsoever for any defect and/or damage of whatever nature caused by failure to follow any instructions of the Company as to storage of the Goods or any misuse or alteration of the Goods by the Customer or its employees, agents or subcontractors without written consent of the Company.
- 12 Quality of the Goods**
- Where this agreement commences following a sale by sample and subject to the provisions of clause 7:
- 12.1 The Customer shall not be entitled to reject the entire order if there is non-compliance with any sample but if any goods are not in substantial compliance the Company shall at its option supply replacement Goods pursuant to 11.6
- 12.2 The Customer shall be deemed to have had a reasonable opportunity of comparing the bulk of any consignment of goods with the sample after 7 days from delivery have expired.
- 12.3 Upon the Customer having been deemed to have had a reasonable opportunity of comparing the bulk of any consignment with the sample the Customer will also be deemed to have notice of any defect rendering the Goods not in accordance with the contract and to have accepted all the Goods so produced. Where the Goods are produced following a sale by description in the Customer's specification or Company's specification
- 12.4 The Goods shall be manufactured and supplied in accordance with the description contained in the Customer's specification or in the Company's specification if appropriate and manufactured in accordance with the Company's Quality Procedures Manual supplied on request.
- 12.5 The Customer shall be responsible for supplying an accurate order or specification in all respects and also adequate quantities of materials where appropriate, which materials shall be of satisfactory quality and fit for purpose according to the order in question.
- 12.6 The Company may at the Customer's request prepare a specification. This shall be confirmed by the Customer who shall be responsible for ensuring that it is accurate in all respects and meets the Customer's requirements.
- 12.7 The Company may from time to time make changes in the specification of the Goods which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality or fitness for purpose of the Goods.
- 12.8 Any contractual description of the Goods by the Company relates to the identity of the Goods but only if it relates to a central characteristic of the Goods or to a substantial ingredient in their identity.
- 13 Insurance**
- 13.1 The Customer will keep the Goods insured from delivery and ending at the time the Goods are collected or delivered. Such insurance shall be for all risks including *inter alia* all loss and damage howsoever caused to the full replacement value and in respect of all liabilities to third parties of whatever nature. The Customer irrevocably appoints the Company to be the Customer's agent for the purpose of receiving all monies payable under the policy or policies and for giving a good and full discharge.
- 14 Notices**
- 14.1 Unless otherwise expressly stated in these terms and conditions, all notices from the Customer to the buyer must be in writing and sent to our contact address at Unit B4, Langham Park, Castle Donnington, Derby DE74 2UT and all notices from us to you will be in writing to the address supplied by you at the time of order.
- 15 Force Majeure**
- 15.1 If due to war, strikes, industrial action short of a strike, import or export embargo, lockouts, accidents, fire, blockade, import or export embargo, flood, natural catastrophes or other obstacles over which the Company has no control, the Company fails to perform any of its obligations under this Agreement, the Company shall not be held responsible for any loss or damage which may be incurred as a result of such failure. Should the event of force majeure continue for longer than one month, the party adversely affected shall have the option of terminating this Agreement immediately without further liability other than such liabilities as have already accrued when the Term ends.
- 16 Invalidity**
- 16.1 If any part of these terms and conditions is unenforceable (including any provision in which we exclude our liability to you) the enforceability of any other part of these conditions will not be affected.
- 17 Third party rights**
- 17.1 Except for our affiliates, directors, employees or representatives, a person who is not a party to this agreement has no right under the UK Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement but this does not affect any right or remedy of a third party that exists or is available apart from that Act.
- 18 Governing law**
- 18.1 The contract between us shall be governed by and interpreted in accordance with English law and the English courts shall have jurisdiction to resolve any disputes between us.
- 19 Entire agreement**
- 19.1 These terms and conditions, together with our delivery details, and contact details set out the whole of our agreement relating to the supply of the goods to you by us. Nothing said by any sales person on our behalf should be understood as a variation of these terms and conditions or as an authorised representation about the nature or quality of any goods offered for sale by us. Save for fraud or fraudulent misrepresentation, we shall have no liability for any such representation being untrue or misleading.
- 20 Termination for breach and on insolvency**
- 20.1 The Company shall be entitled to terminate this Agreement without liability to the Customer by giving notice to the other party at any time if the Customer makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or becomes subject to an administration order or goes into liquidation otherwise than for the purpose of amalgamation or reconstruction; or
- 20.1.1 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or
- 20.1.2 the Customer ceases, or threatens to cease, to carry on business; or
- 20.1.3 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.