

Terms and Conditions of Sale

February 2016



the **fundraising**
tree company

www.fundraisingtree.co.uk
Unit F Arena Design Centre
Ashfield Road, London N4 1FF

07974 205550
or email via website

Terms and conditions of sale

Trading name:

All orders are placed with The Fundraising Tree Company which is a business name of Eddie Green, Unit F Arena Design Centre, London N4 1FF. These terms and conditions will apply to all sales of products made or distributed by The Fundraising Tree Company to our customers.

1 Definitions

- 1.1 In these terms, except where the context indicates otherwise, the following phrases will have the following meanings:
- 1.2 FRTC means The Fundraising Tree Company.
- 1.3 Goods means the products which we are selling to you as set out in the Order.
- 1.4 Order means a document whether in hard copy or electronic form produced by us setting out the Goods we are to supply to you under these terms.
- 1.5 Unexpected Event shall have the meaning given to it in clause 12.
- 1.6 Working Day means any day except Saturdays, Sundays and bank and public holidays.
- 1.7 We and Us and related expressions mean The Fundraising Tree Company as detailed above.
- 1.8 You and Your and related expressions means the person to whom the order is addressed.
- 1.9 Consumer means any person who, in buying goods is acting for purposes that are outside their business.
- 1.10 Customised products means any goods which are made to your specification, non-stocked items which are ordered specifically for your order, or items which are clearly personalised.

2 Basis of Contract

- 2.1 These terms, the order, are considered by us to set out the whole agreement between you and us for the sale of the goods. Please check that the details in the terms or on the order are complete and accurate before you commit yourself to the contract. Please ensure you read and understand these terms before confirming the order, because you will be bound by the terms once a contract comes into existence between us, in accordance with clause 2.4.
- 2.2 If any terms are inconsistent with the terms of the order, the order shall prevail.
- 2.3 The order is an offer by you to enter into a binding contract, which we are free to accept or decline at our absolute discretion.
- 2.4 These terms shall be binding upon you and us when we notify you with a written acceptance of an order (whether in hard copy or electronic form), at which point a contract shall come into existence between us.
- 2.5 We have the right to revise and amend these terms from time to time to reflect change in market conditions affecting our business, changes in technology, changes in payment methods, changes in relevant laws and regulatory requirements and changes in the capabilities of any systems operated by us. You will be subject to the policies and terms in force at the time that a binding contract comes into existence in accordance with clause 2.4; unless any change to those policies or these terms is required by law or government or regulatory authority (in which case, it will apply to orders you have previously placed that we have not yet fulfilled).

3 Cancellation and Order Amendments

- 3.1 Customised products are manufactured once an order is received. You are able to cancel or change your order at any time until manufacturing is underway. Once the customised product manufacture is in progress we are unable to cancel or amend the order relating to it. If the specification of your order changes an additional payment may be required and your order will be placed on hold subject to receipt of additional payment. If you cancel your order, we will deduct the cost of any materials already purchased by us to complete your order from any refunds due.
- 3.2 With the exception of customised products, you may amend your order with us at any time before the despatch date. If the specification of your order changes an additional payment may be required. Order amendments may delay the previously agreed despatch date. We will endeavour to amend your order in time for despatch as previously agreed; however should there be insufficient time we will make contact with you to re-arrange a later delivery date. Please contact us for assistance.
- 3.3 With the exception of customised products detailed in 3.1, you may cancel your order with us at any time between the date we accept your order and the despatch date. If you cancel your order, we will deduct 25% of the order price of those products from any refunds due. Please contact us for assistance.
- 3.4 If you amend or cancel your order, you shall have no further claim against us under this contract. Any refunds due will be refunded within 14 days of receipt of goods.

4 The Goods

- 4.1 We warrant that on delivery the goods shall:
- 4.1.1 comply in all material respects with their description on the order;
 - 4.1.2 be of satisfactory quality;
 - 4.1.3 be fit for the purpose that we say the goods are fit for or for any reasonable purpose for which you use the goods;
 - 4.1.4 be free from any material defects in design, material or workmanship; and
 - 4.1.5 comply with all applicable statutory and regulatory requirements for selling the goods in the United Kingdom.
- 4.2 The warranties set out in this clause 4 are in addition to your legal rights in relation to goods which are faulty or which do not otherwise conform with these Terms.
- 4.3 This warranty does not apply to any defect in the goods arising from:
- 4.3.1 fair wear and tear, wilful damage, accident or negligence by you or any third party;
 - 4.3.2 use of the goods in a way that we do not recommend;
 - 4.3.3 your failure to follow instruction (including instructions about use, cleaning and servicing of the goods) which we have provided to you; or
 - 4.3.4 any alteration or repair you carry out without prior written approval.

5 Price and Payment

- 5.1 The price of goods shall be the price in force at the time you confirm your order. We reserve the right to update our price list from time to time without providing specific notice to you.
- 5.2 Estimates for goods are given on the basis that a binding contract shall only come into existence in accordance with clause 2.4. The estimate is valid for 30 days from date of issue (unless otherwise stated); unless we notify you that we have withdrawn it during this period.

- 5.3 The price includes VAT (unless otherwise stated). VAT will be charged at the rate applying at the time of delivery.
- 5.4 The price or goods excludes delivery (unless otherwise stated). The cost of delivery shall be as specified in the order.
- 5.5 Payment of all goods must be made in advance by cash, BACS payment, credit or debit cards, or by cheque.

6 Delivery

- 6.1 The goods will be delivered to your delivery address specified on the order.
- 6.2 Delivery of the order shall be complete when we deliver the goods to you.
- 6.3 If we are not able to deliver the whole of the order at one time for any reason including operational reasons or shortage of stock, we will deliver the order in instalments. We will not charge you extra delivery costs for this. If you ask us to deliver the order in instalments, we may charge you extra delivery costs. Each instalment shall constitute a separate contract. If we are late delivering an instalment or one instalment is faulty, that will not entitle you to cancel any other instalment.
- 6.4 We will take reasonable steps to meet the despatch estimate set out on the order (or as otherwise agreed between us in writing). However, occasionally despatch may be affected by factors which we do not control and so cannot be guaranteed. We will let you know if we become aware of an unexpected delay and will arrange a new despatch date with you. We shall have no liability for late despatch except where time has been made the essence of the contract and agreed by both parties in writing at the time of ordering.
- 6.5 Please advise us if access to the delivery address will be difficult for a large panel van vehicle. Should any doubt exist, please contact us to make alternative arrangements.
- 6.6 We will use a carefully selected carrier service for the delivery of your order. The service standard for these carrier service orders is delivery to the nearest access point to the delivery address. If help is and assistance is needed to put the goods inside your property, please advise us before despatch and we will discuss your requirements with the carrier. Heavy goods deliveries may require your assistance to offload. Offers to assist the delivery are made at your own risk and should only be attempted if you are comfortable lifting the load. In the event you are unable to assist and the delivery is too heavy for the driver to safely deliver on their own, we will discuss with you and will either re-arrange the delivery for a later date where more assistance is available, or the delivery will be made to the nearest point of access that can be achieved by the driver.
- 6.7 If you fail to take delivery of the order, then, except where this failure is caused by a failure by us to comply with these Terms:
 - 6.7.1 we will store the goods until delivery takes place and may charge you a reasonable sum to cover expenses; and
 - 6.7.2 we shall have no liability for late delivery.
- 6.8 Please check all goods immediately upon delivery for signs of damage to packaging during delivery and notify the delivery driver before accepting the consignment. Inspect the delivery for damage or missing goods, take photographs of the damage and contact us as soon as possible to report, in any case within one working day. We reserve the right to refuse claims for damaged or missing goods made after this time unless a longer period of time has been previously agreed in writing.

7 Installation

- 7.1 We have free downloadable installation guides available from our website. Installations should only be carried out once the relevant guide has been read and understood by the installer.
- 7.2 Installation constitutes acceptance of the product.
- 7.3 The Fundraising Tree Company offer a number of design services; for terms and conditions governing these services please contact us.

8 Risk and Title

- 8.1 Ownership of the goods will only pass to you when we receive payment in full of all sums due for the goods, including delivery charges.
- 8.2 Whilst ownership of the goods passes to you once full payment is made, the goods will be fully insured by us whilst in our storage awaiting delivery. Our insurance cover will cease on delivery of order in accordance with Clause 6.2.

9 Limitations of Liability

- 9.1 Subject to clause 8.2, if either of us fails to comply with these Terms, neither of us shall be responsible for any losses that the other suffers as a result, except for those losses which are a foreseeable consequence of the failure to comply with these Terms.
- 9.2 Neither you or we shall be responsible for losses that result from our own failure to comply with these Terms including, but not limited to, losses that fall into the following categories:
 - 9.2.1 loss of income or revenue;
 - 9.2.2 loss of business;
 - 9.2.3 loss of anticipated savings;
 - 9.2.4 loss of data; or
 - 9.2.5 any waste of time. However this clause 9.2 shall not prevent claims for foreseeable loss of, or damage to, your physical property.
- 9.3 Neither of us will exclude or limit in any way our liability for:
 - 9.3.1 death or personal injury caused by our negligence; or
 - 9.3.2 fraud or fraudulent misrepresentation; or
 - 9.3.3 any breach of the obligations implied under section 12 of the Sale of Goods Act 1979; or
 - 9.3.4 losses for which it is prohibited by section 7 of the Consumer Protection Act 1987 to limit liability; or
 - 9.3.5 any other matter for which it would be illegal or unlawful for either you or us to exclude to attempt to exclude our liability.

10 Waiver and Variations

- 10.1 If we fail, at any time while these terms are in force, to insist that you perform any of your obligations under these Terms, or if we do not exercise any of the rights or remedies which we have under these Terms, that will not mean that we have waived such rights or remedies and will not mean that you do not have to comply with those obligations. If we do waive a default by you, that will not mean that we will automatically waive any subsequent default by you. No waiver or variation of these Terms shall be effective unless we expressly state that it is a waiver and we tell you so in writing.

11 Return of Goods (excluding customised products)

- 11.1 Should you wish to return an order following delivery you may do so by informing us within 10 working days of receipt of delivery. Goods must be returned to us and we ask that you take reasonable care when handling the goods and return the goods to us unopened, unused and in their original packaging, where possible.
- 11.1.1 Please confirm your intent to return the order by calling us within 10 working days of receipt; we will confirm to you a returns address and reference for your package.
- 11.1.2 The cost of returning the goods once delivered is at your own cost and risk;
- 11.1.3 We are not responsible for any loss or damage to any returned goods in transit and as such, we recommend that you return the goods through a recorded delivery service.
- 11.1.4 When returning goods please carefully package the goods together with your returns reference. A returns form will be provided to include in the package.
- 11.1.5 If returned goods are lost or damaged in transit, we reserve the right to charge you for any loss or damage.
- 11.1.6 Where we have agreed to the return of goods, these goods must be returned within 14 days of the notice of intent.
- 11.2 In the unlikely event that the goods do not conform to these Terms, please let us know as soon as possible by contacting us.
- 11.3 We will, at our option:
- 11.3.1 inspect the goods at your premises;
- 11.3.2 collect the goods on a date agreed between you and us; or
- 11.3.3 ask you to return the goods to us.
- 11.4 If the goods are found by us to be defective, and we have asked you to return the goods to us at your cost we will reimburse you for third party delivery costs involved in the return.
- 11.5 If you exercise your right to return your order, any refunds due will be refunded within 14 days of receipt of goods.

12 Unexpected Event

- 12.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of the obligations we may have under these Terms that is caused by events over which we have no reasonable control (an 'Unexpected Event').
- 12.2 An Unexpected Event includes Act of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, extreme weather conditions, lock-outs, transport delays, strikes and other industrial disputes and difficulty in obtaining supplies.
- 12.3 The obligations we have under these Terms are suspended for the period that the Force Majeure Event continues, and we will have an extension of time to perform these obligations for the duration of that period. We will take reasonable steps to bring the Force Majeure Event to a close or to find a solution by which the obligations we have under these Terms can be performed despite the Unexpected Event.

13 General

- 13.1 English Law is applicable to any contract made under these Terms. The English and Welsh courts have nonexclusive jurisdiction.

- 13.2 If any of these Terms are unenforceable as drafted:
- 13.3 it will not affect the enforceability of any other of these Terms; and
- 13.4 if it would be enforceable if amended, it will be treated as so amended.
- 13.5 All notices sent by you to us must be sent to The Fundraising Tree Company at the offices above. We may give notice to you at either the e-mail or postal address you provide to us in the Order. Notice will be deemed received and properly served twenty four (24) hours after an e-mail is sent or two (2) Working Days after the date of posting of any letter.
- 13.6 Except as explicitly set out in these Terms, no contract will create any right enforceable by virtue of the Contracts (Right of Third Parties) Act 1999 by any person not a party to it.