

Carrs Billington Agriculture (Sales) Limited
Terms and conditions relating to the sale of fuel products
April 2020

1 CONDITIONS OF SALE

1.1 The terms and conditions set out herein (“**Conditions**”) comprise the entire the terms and conditions upon which Carrs Billington Agriculture (Sales) Limited (“**we** or “**us**” as appropriate) supplies fuels, lubricants, additives or related products or services (“**Goods**”) to you as a buyer. The Conditions apply to the exclusion of all other terms.

1.2 If you are purchasing Goods as a consumer then nothing in these Conditions shall affect your statutory rights. Advice about your legal rights is available from your local Citizen’s Advice Bureau or Trading Standards office.

1.3 Nothing in these Conditions shall affect our implied undertaking as to title given to you under section 12 of the Sale of Goods Act 1979 or exclude or restrict our liability for death or personal injury resulting from negligence or for fraud.

1.4 No variation to these Conditions shall be binding unless agreed in writing between our authorised representative and you.

1.5 The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.6 We reserve the right to make any changes to Goods which are required to conform with any applicable safety or other statutory requirements, or which do not materially affect their quality or performance.

2. ORDERS

2.1 All Goods are offered and sold subject to stocks and services being available. A contract on these terms is formed upon us confirming acceptance of an order for Goods placed by you.

2.2 All delivery dates provided by us are indicative estimates only. We will use our reasonable endeavours to meet delivery dates but the time for delivery is not of the essence.

2.3 Where we agree to provide you with an automatic top-up service, you agree that we are entitled to enter onto your premises without notice in order to inspect your heating or other systems or storage facilities and to top-up such systems or facilities with appropriate Goods to the extent that these have vacant capacity. In such circumstances, you agree that an order is placed by you and accepted by us for the volume of Goods supplied on the date that we top-up your systems.

3. PRICE AND PRICING

3.1 You will be charged for Goods at the prices advertised by us at the time of ordering irrespective of when delivery takes place (the “**Price**”). If we are unable to provide you with the Price at the time of ordering, then this will be contacted prior to delivery to confirm the Price.

3.2 The Price includes delivery and any other charges specifically identified but excludes any VAT which will be charged at the prevailing rate.

3.3 We reserve the right to change the Price by giving you reasonable notice prior to delivery on the basis that our costs of supplying the Goods to you has materially increased since the date of order. In such circumstances you will be given the option to cancel your order upon being notified of the proposed increase in the Price.

4. DELIVERY

4.1 We will deliver the Goods to the address and delivery point you provided at the time of submitting your order. We will deliver the

Goods in the place or places and manner stipulated by you or anyone at the delivery address who indicates that they are your representative. Where there are specific delivery instructions these should be communicated clearly to us at the time of the order. If neither you nor your representatives are present at the time of delivery and we have received no alternative instructions, we will deliver the Goods in the place or places and manner in which our driver considers correct. If the driver is unable to deliver or considers it unsafe to deliver, we will cancel the delivery.

4.2 If you fail to take delivery of the Goods or fail to give us adequate delivery instructions at the time stated for delivery (otherwise than for any cause beyond your reasonable control), then we may:

(a) store the Goods until actual delivery and charge you for the reasonable cost (including without limitation insurance costs) of storage, transport and re-delivery; or

(b) sell the Goods at the best price readily obtainable and, after deducting all reasonable storage, transport and selling expenses, and charge you for any shortfall below the price payable by you for the Goods.

4.3 Where the Goods are delivered through a hose, delivery will take place when the Goods pass from our tank wagon's hose pipe connection. In all other cases, delivery of the Goods will take place when we give you possession of the Goods.

4.4 The Goods will be your responsibility from the completion of delivery. You own the Goods once we have received payment in full.

5. TERMS OF PAYMENT

5.1 Payment for Goods supplied is due within 28 days of the date of the invoice. Time of payment is of the essence.

5.2 If at any time any invoices are overdue then all unpaid balances owing to us from you shall become immediately due and payable.

5.3 All cheques should be made payable to Carrs Billington Agriculture (Sales) Limited and crossed 'account payee only'. In the case of dispute or legal proceedings our offices at the address shown on the remittance advice attached to the invoice is to be deemed the place where payment is made.

5.4 A credit charge may be added to the Price of the Goods and this credit charge if so added will appear on the invoice. This credit charge may be deducted if the Goods are paid within the period specified on the invoice. If the Goods are not paid within that period the credit charge must be paid.

5.5 Notwithstanding any period of credit which may have been granted we reserve the right to revoke such credit and demand payment for any account or invoice at the time of delivery or at any time thereafter provided that due allowance shall be made for any credit charge which we may have made.

6. SUSPENSION

In the event that:

6.1 you become bankrupt or insolvent or become subject to a procedure (whether voluntary or compulsory) under the Insolvency Act 1986 or any other applicable law relating to matters of personal or corporate insolvency, or do or fail to do anything which entitles a lawfully appointed receiver or administrator to take possession of assets;

6.2 any court proceedings are initiated against you by the holder of any security or any execution is levied against you or any of your property or assets, or any action is taken against you in pursuance of court proceedings;

6.3 you do not make payment for the Goods in accordance with these Conditions;

6.4 (where you are not a consumer) you cease or threaten to cease to carry on business; or

6.5 we reasonably consider that any of the events mentioned above is about to occur in relation to you and we notify you accordingly, then without prejudice to any other right or remedy we have available, then:

6.6 your right to possession and use of the Goods not yet paid for shall cease immediately;

6.7 we will be entitled to terminate the contract between you and us and/or suspend any further deliveries of Goods to you;

6.8 payment for any Goods delivered to you but not yet paid for shall become due immediately; and

6.8 we or our agents may enter upon any premises where the Goods are stored or where we reasonably consider them to be located, with or without vehicles or equipment and take whatever other steps are reasonably necessary (including without limitation opening and tapping tanks and activating whatever equipment is necessary for the purpose) for the purpose of repossessing the Goods. Where the Goods are indistinguishable from other liquids they are mingled with, we may take possession of an equivalent amount of the fuel as was delivered to you.

7. OUR LIABILITY

7.1 Except where you are a consumer, you are deemed to be familiar with the description of the Goods and the quantities and properties of each of the Goods and the purposes for which they are fit.

7.2 In the event that the Goods supplied to you are defective or do not match what you had ordered, we will (at our option) replace free of charge, or refund or credit you with the price you paid for the Goods, provided that:

(a) you inform us of the alleged defect immediately upon becoming aware of the alleged defect;

(b) you keep the alleged defective Goods in the same state and condition as was the case when you discovered the alleged defect until we have inspected the Goods; and

(c) you make no further use of the Goods.

Under no circumstances will we give you a replacement, refund or credit for any part of the Goods unless the Goods were defective.

7.3 Our liability is limited to the loss or damage you suffer as a reasonably foreseeable consequence of our breach of these Conditions or negligence (this includes such losses which were an obvious consequence of our breach or were contemplated by you and us at the time we entered into this contract).

7.4. Except where you are a consumer and not purchasing Goods for use in connection with any business undertaking, and subject to as otherwise provided herein or precluded by law:

(a) our liability to you under these Conditions or otherwise is limited to the Price paid for all Goods supplied to you in the calendar year immediately prior to the date upon which liability arose; and

(b) under no circumstances will we be liable to you for loss of profits, loss of business or contracts, loss of income or revenue, loss of overhead, loss of goodwill or anticipated savings, or any other consequential losses whether direct or indirect, foreseeable or otherwise.

8. DATA PROTECTION

We collect and process personal information in accordance with the Privacy Notice published on our website at

<https://www.carrs-billington.com/information/privacy-cookie-policy/>.

9. FORCE MAJEURE

We shall have no liability whatsoever under, or in any way related to, the sale and purchase of Goods or otherwise whether in contract, tort, delict (including in each case negligence or otherwise), for any failure to fulfil any obligation hereunder if and to the extent that such fulfilment is prevented by circumstances beyond our reasonable control including but not limited to vehicle breakdown, fuel shortages at our wholesale suppliers, road traffic problems, strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, severe weather, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks..

10. MISCELLANEOUS

10.1 This contract is between you and us. No other person shall have any rights to enforce any of its terms.

10.2 Each of the clauses in these Conditions operates separately. If any court or tribunal of competent jurisdiction determines that any of the terms set out in these Conditions are unlawful, then such terms shall be deleted, and the remaining terms will remain in full force and effect.

10.3 For deliveries to locations in England and Wales, this agreement shall be governed by the laws of England and Wales whose courts shall have exclusive jurisdiction. For deliveries to locations in Scotland, the courts of Scotland shall also have jurisdiction.