

## NRL TERMS OF BUSINESS

### 1 GENERAL

1.1 These Terms of Business set out below ("Terms") apply to the order by you and the supply of goods by us, in placing the order you accept these Terms.

1.2 "**BAT UK**" means British American Tobacco United Kingdom Limited, company number 2346565 whose registered office is at Building 7, Chiswick Business Park, 566 Chiswick High Road, London, England, W4 5YG.

1.3 "**Carrier**" means any carrier appointed by Customer for collection and delivery of Order(s) on behalf of Customer.

1.4 "Collection Point" means the NRL collection point, as notified the Customer by NRL

1.5 "**Customer**" means any individual, trader, firm or person who places an Order with NRL whether directly via a Sales Reps, whether or not that order is accepted.

1.6 "**Goods**" means the Goods to be supplied to the Customer by NRL.

1.7 "**NRL**" means Nicoventures Retail (UK) Limited, company number 10235033 whose registered office is at Globe House, 1 Water Street, London, England, WC2R 3LA.

1.8 "**Order**" means each order placed by the Customer via phone, email, fax or EDI with NRL constitutes an offer which NRL is free to accept or reject as it chooses and accordingly any price list or quotation constitutes no more than an invitation to the Customer to offer to purchase the Goods.

1.9 "**Sales Reps**" means the BAT UK sales representatives who sell Goods to Customer on behalf of NRL

1.10 The Terms cancel and supersede all previous issues and constitute the entire agreement between parties in relation to its subject matter. No other employee, salesperson or agent of BAT UK or NRL has the authority or ability to change or suspend these Terms in any manner whatsoever. If there is any inconsistency between these Terms and the express terms contained in any written contract between the parties, order form, invoice, acknowledgement or otherwise then these Terms shall prevail unless specifically varied by the written agreement of NRL. If subsequent to any contract of sale, which is subject to these Terms, a contract of sale is made with the same Customer (in whatever form) without express reference to any Terms, such contracts shall be deemed to be subject to these Terms.

### 2 PRICES

2.1 Prices for Goods and payment terms (where applicable) shall be specified on the invoice or in such price list provided by NRL from time to time.

2.2 All prices, including charges, discounts and rates of VAT are subject to alteration without notice. In the event of any such alteration orders received but not yet delivered will be charged at the rates applicable on the invoice for those Goods.

### 3 DELIVERY AND ACCEPTANCE

3.1 Where Goods are delivered by NRL directly to the Customer (via van-sales):

3.1.1 The Goods will be deemed to have been delivered to the Customer when delivered to a person appearing to have authority to sign for them at the destination specified by the Customer.

3.1.2 Risk in the Goods shall pass to the Customer immediately on delivery.

3.1.3 Any delivery time specified is an estimate only and NRL shall not be liable for any economic loss or damage whatsoever sustained by the Customer as a result of a failure by NRL to comply with such estimate.

3.1.4 NRL shall be entitled to deliver the Goods in one or more separate consignments.

3.2 Where Goods are collected and delivered to Customer by its Carrier:

3.2.1 Delivery shall be deemed completed on the Carrier's collection of the Goods from Collection Point.

3.2.2 Risk in the Goods shall pass to the Customer on the Carrier's collection of the Goods from the Collection Point.

3.3 NRL is a distributor of Goods and the Customer is exclusively responsible for reviewing the specification of the Goods, for ascertaining the use to which they will be put and for determining their ability to function for that purpose.

3.4 The Customer is required to inspect the Goods upon delivery of Goods to its premises. All packages must be unpacked immediately on delivery, the contents checked and any shortage, damage and incorrect Goods shall be notified to NRL in writing within 48 hours giving full details (oral notice will not be considered notice) and NRL given an opportunity to inspect the Goods before any use is made of them. NRL may within 15 days of receiving such written notification inspect the Goods and the Customer shall take all necessary steps to enable NRL to do so.

3.5 The Customer shall be deemed to have accepted the Goods 5 days after delivery of Goods to its premises, unless notice of any shortfall or damage is given to NRL in accordance with clause 3.4. After acceptance the

Customer shall not be entitled to reject Goods which are not in accordance with these Terms

3.6 The Customer shall not remove or otherwise interfere with the marks or numbers on the Goods.

### 4 CLAIMS

4.1 In the event of a valid claim for defect, loss, damage, or non-compliance with the Terms or non-delivery, NRL shall, at its option either reprocess or replace the concerned Goods at its expense or issue a credit note or refund but shall not be under any further or other liability in connection with such non-delivery, loss, damage or non-compliance.

4.2 NRL shall not be liable (whether in contract or for negligence or otherwise howsoever arising) for any claim in relation to the Goods under clause 3.4 if:

4.2.1 the Customer makes any further use of such Goods after giving notice of the relevant claim; or

4.2.2 the defect arises because the Customer failed to follow; the instructions at clause 5, NRL or the Sales Rep's oral or written instructions as to the storage, installation, use or maintenance of the Goods or (if there are none) good trade practice;

4.2.3 where such damage, loss or defect is caused by the Carrier;

4.2.4 the Customer alters the Goods or

4.2.5 any claim brought is otherwise not in accordance with the Terms.

### 5 STORAGE AND MAINTENANCE OF STOCK:

5.1 **Stock control:** Customer should ensure that it always rotates stock to ensure that your oldest stock is sold first and the newest stock is kept until the old stock has sold through.

5.2 **Storage:** Goods must be stored appropriately to ensure that it is maintained for retail sale in order to ensure that the Goods reaches the adult consumer in good condition. Storage of Goods can be effected by the temperature it is stored at and how long it is stored for which is referred to as "age quality".

### 6 TOBACCO TRACK AND TRACE

6.1 Both parties agree to comply with their respective obligations under the Tobacco Products (Traceability and Security Features) Regulations 2019, or any similar or amended legislation, whether following the UK's exit from the European Union or otherwise.

### 7 LIABILITY – IMPORTANT – PLEASE READ THIS SECTION CAREFULLY

7.1 Save as provided in these Terms, any express or implied conditions, statements (other than any fraudulent statements) or warranties (other than as to NRL's title to the Goods) in each case where arising by statute or otherwise in respect of the Goods or as to their description, quality or fitness for any purpose or otherwise are excluded.

7.2 The provision or exhibition of any sample to the Customer shall not constitute any sale as a sale by sample and any express or implied term in relation to correspondence of any Goods to any sample is hereby expressly excluded.

7.3 Nothing in these Terms shall exclude or restrict NRL's liability for death or personal injury arising out of or in connection with the negligence of NRL.

7.4 In the event of the condition of the Goods would (subject to these Terms) entitle the Customer to claim damages or repudiate the contract of sale, the Customer shall first ask NRL to and NRL shall where reasonably practicable supply satisfactory substitute goods free of cost and within a reasonable time. If NRL does supply such satisfactory substitute goods the Customer shall be bound to accept such substituted goods as its exclusive remedy for any defect and NRL shall have no liability to the Customer in respect of any loss or damage whatsoever arising from the initial delivery of defective Goods or from any delay before the substitute goods are delivered.

7.5 The liability of NRL for Goods lost, damaged or not delivered will in no case exceed the invoice value of the Goods lost, damaged or not delivered. If NRL accepts liability for Goods being lost or damaged it will credit the Customer with the amount of the loss (not exceeding the invoice value of the Goods including VAT) of the Goods lost or damaged.

7.6 Subject to clause 7.3, NRL's total aggregate liability arising under or in connection with these Terms, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise howsoever, shall in all circumstances be limited in aggregate to either (i) the value of the invoice for the supply of the Goods under which the claim arose, or where this is not ascertainable; (ii) £5,000.

7.7 In no circumstances whatsoever shall NRL be liable for consequential or indirect loss, cost, claims or expenses of any kind, or for loss of business or profits.

7.8 BAT Group shall be entitled to enforce the rights and remedies of NRL in accordance with the Contracts (Rights of Third Parties) Act 1999 ("the Act"). Subject to the foregoing, a person who is not a party to a contract of sale with NRL has no right under the Act to enforce any term of the contract

but this does not affect any right or remedy of a third party which exists or is available apart from the Act. "**BAT Group**" means any subsidiary or holding Customer of BAT UK or any holding Customer or subsidiary of BAT UK's holding Customer for the time being; **holding Customer** and **subsidiary** have the meanings given in Section 1159 of the Companies Act 2006.

## **8 RETURN OF GOODS**

8.1 NRL is under no obligation to accept the return of Goods from the Customer which are not defective or otherwise are outside of BAT UK's standard warranty offered for defective Goods. The Customer shall not return any Goods without NRL's prior consent. NRL will not accept the return of part packs of the Goods and/or individual cigarettes or individual electronic devices.

8.2 In the event where NRL does accept the return of product from the Customer NRL shall credit the Customer at the duty rate charges previous to the month in which the returns were received.

8.3 Where a Customer refuses to accept delivery of an order for whatsoever reason or NRL agrees to accept the return of Goods NRL reserves the right, in addition to any other claim it may have, to charge the Customer an amount equivalent to 1.5% at the price of the order to cover the cost of carriage of the refused or returned delivery and the administration charges involved.

8.4 To ensure there is no delay in the issuing of a credit note to the Customer the following procedures must be complied with:

8.4.1 The Goods must be securely packed and bear official labels as may be supplied by NRL; and

8.4.2 A notice must be included in each package stating:

- i. The Customer's trading name, address and customer account number,
- ii. Date of despatch of the Goods,
- iii. Number of packages returned and total contents.

8.5 A copy of this notice should be sent by post to NRL and provided to the relevant Sales Reps on the same day.

## **9 OWNERSHIP OF THE PRODUCTS**

9.1 Notwithstanding delivery of and the passing of risk in the Goods to the Customer in accordance with clause 3, title to the Goods will remain with NRL until one of the following events occurs:

9.1.1 NRL is paid for the Goods and no other amounts are outstanding from the Customer to NRL in respect of other Goods supplied by NRL; or

9.1.2 The Customer sells the Goods by way of bona fide sale at full market value and in any event at not less than cost price, in the ordinary course of its business, such sale to be made by the Customer, as regards the purchaser, as principal and not as agent for NRL.

9.2 Before title to the Goods has passed from NRL and without prejudice to any of its other rights, NRL shall have the right to recover and re-sell the Goods or a part of them and may enter upon the Customer's premises by its servants or agents for that purpose. All Goods shall be properly housed and protected by the Customer and shall be stored separately in a manner which makes them readily identifiable as the Goods belonging to NRL. All Goods marked as having been manufactured or distributed by NRL or BAT UK shall be presumed to have been supplied by NRL unless the contrary can be shown by the Customer.

9.3 Until payment due under all contracts between the Customer and NRL has been made in full the Customer shall hold the Goods in a fiduciary capacity as bailee for NRL.

## **10 TERMINATION**

10.1 Without prejudice to any of its other rights NRL may recover or re-sell the Goods or any part of them and the Customer shall not be entitled to sell or otherwise dispose of the Goods or any part of them, if the Customer is in breach of any of these Terms or if: being a Customer it:

- i has a petition presented for its winding-up, or
- ii passes a resolution for voluntary winding-up, or
- iii enters into any voluntary arrangement with its creditors, or
- iv becomes subject to an administration order, or
- v has a receiver appointed over all or any of its assets, or being an individual or firm it:
- vi becomes bankrupt or insolvent, or
- vii enters into any voluntary arrangement with its creditors.

10.2 If any sums due to BAT UK from the Customer become overdue in whole or in part or if the Customer fails to take delivery of order otherwise than in accordance with the Customer's contractual rights then NRL may, without prejudice to any other rights or remedies available to it, without notice, terminate all or any part of any contract of sale with the Customer or suspend or cancel any deliveries thereunder.

10.3 If the Customer is in default under clause 10.1 NRL may at its discretion set off amounts owed by the Customer to NRL for Goods supplied by NRL against monies repayable to the Customer by NRL.

## **11 PAYMENT**

11.1 The Customer must pay all accounts in full to NRL or other specified entities as notified on the invoice by the payment date specified on the invoice submitted to the Customer.

11.2 NRL or other specified entities on its behalf as notified on the invoice reserves the right at any time in its absolute discretion to demand immediate payment of any account whether due or not. NRL will exercise our right to recover monies owed, if NRL are not paid according to agreed credit terms. The Customer will reimburse to NRL all costs and expenses incurred in the collection of any overdue amounts.

11.3 If the Customer fails to make any payment due to NRL or the specified entity by the payment date, then, without limiting NRL's remedies under these Terms, the Customer shall pay interest on the overdue amount at the rate of 1.5% per annum above Barclays Bank'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 interest before or after judgment. The Customer shall pay the interest together with the overdue amount.

## **12 BARCODES**

12.1 BAT UK may at its option print bar codes on the Goods. NRL accepts no liability for any loss, damage or expense that may be suffered or caused to the Customer by reason of any inaccuracy in such bar codes or as a result of their incorrect use by the Customer.

## **13 MISCELLANEOUS**

13.1 These Terms shall be governed by the laws of England and Wales and the parties agree to submit to the jurisdiction of the courts of England and Wales.

13.2 In the unlikely event of a product recall being notified to the customer under NRL's or BAT UK's duty to inform and recover under the General Product Safety Regulations 2005, the Customer shall cooperate fully with NRL or BAT UK's direction to fully to remove all of the stock referred to in the product recall notice issued to the Customer and promptly adhering to any time limits.

13.3 The Customer shall provide NRL with details of any consumer complaints in relation to the Goods

13.4 The Customer agrees not to alter or remove or deface any trade mark which has been applied to the Goods nor before resale of the Goods to make any alteration to their state or condition. No right or licence is granted under these terms under any patent, trade mark, copyright or other intellectual property right except to use or re-sell the Goods.

13.5 NRL shall not be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control (including but not limited to pandemics and epidemics, acts of God, strikes, lock outs, accidents, war, fire, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply) and the NRL shall be entitled to a reasonable extension of its obligations. If the delay persists for such time as NRL considers unreasonable, it may without liability on its part, terminate the invoice or the Terms.

13.6 The Customer shall comply with its obligations under applicable laws, including under the General Data Protection Regulation 2018 and Data Protection Act 2018.

13.7 The Customer may not assign, sub-contract or dispose of its rights and obligations under these terms without the prior written consent of NRL. NRL may perform its obligations or exercise its rights by itself or through any other member of the BAT Group.

13.8 NRL's rights and remedies shall not be prejudiced by any indulgence or forbearance to the Customer and no waiver by NRL of any breach by the Customer shall operate as a waiver of any subsequent breach.