

New Client Form (COD)

Splash-Out Pty Ltd

Company Reg no: 2025/290290/07

VAT no: 4890161658

No. 4 Brett Park

17 Jersey Drive

Longmeadow Business Estate,

Johannesburg, 1609

Registered Company Name:

Registration Number/ Practice Number / Other
Company Identification

VAT Number:

ID Number

Name & Surname

Email

Telephone Number

Cellphone Number

Client Physical Address:

Please include the following documents:

- Proof of banking details
- ID copies of owner/s
- Company/CK Registration

Documentation to be sent to accounts@totembags.co.za

Upon signing this agreement, said client acknowledges the fact it will have a COD account with Splash-Out Pty Ltd and therefore needs to make payment on delivery of the quotation. The client is aware that Splash-Out Pty Ltd subscribes to Experian, a debt collection agency, and that if the invoice is not settled immediately, Splash-Out Pty Ltd has the right to hand it over to Experian for collection of the outstanding money. If, after due notice, the account is still not paid, the client may be blacklisted. All goods remain the property of Splash-Out Pty Ltd, until paid for in full.

Splash-Out Pty Ltd T/A Totem Bags warrants that it will not disclose the Confidential Information obtained within this document to any unauthorized third party and will use their utmost efforts and diligence to guard and protect the Confidential Information.

Name of Signatory:

Signed at:

Signature:

Date:

Initial

Where will you be retailing our products?

Store

Online

Website

SPLASH-OUT PTY LTD t/a TOTEM BAGS - TERMS AND CONDITIONS OF SALE

1. INTRODUCTION AND RELATIONSHIP BETWEEN THE PARTIES

- 1.1. Splash-Out Pty Ltd trading under the name and style of "Totem Bags" with registration number 2025/290290/07 ("**Seller**") imports and distributes a collection of high-quality bags, backpacks, and related goods (collectively "**the Goods**") in order to make such Goods available for wholesale.
- 1.2. Any person or entity purchasing or accepting any quote or making any payment in respect of the Goods ("**the Purchaser**") hereby agrees that such purchase, acceptance, or payment constitutes the Purchaser's tacit/express acceptance of these terms and conditions of sale ("**the Terms**").

2. THE SALE OF THE GOODS

- 2.1. Seller makes the Goods available for sale and distribution to Purchasers both in- and outside of the borders of the Republic of South Africa ("**RSA**").
- 2.2. Subject to acceptance by the Purchaser of the Pro-forma Invoice prepared by Seller, Seller hereby sells the Goods to the Purchaser, who hereby purchases the Goods, subject to these Terms.

3. ORDER PROCEDURE

- 3.1. Any prospective Purchaser may submit an order for the Goods through one of the following mechanisms:
 - 3.1.1. by submitting a request to orders@totembags.co.za, and/or
 - 3.1.2. by placing an order through Seller's online portal ("**the Portal**").
- 3.2. Upon receipt of a request from a prospective Purchaser as provided for, a representative will contact the prospective Purchaser as soon as reasonably practicable, and shall further provide the prospective Purchaser with a pro-forma invoice for the Goods required by the Purchaser ("**Pro-forma Invoice**").
- 3.3. Should a Purchaser who pays the Seller on a "cash on delivery" basis receive a Pro-forma Invoice as contemplated herein above, the Seller shall not be required to reserve their stock-in-trade for the purposes of the Purchaser's order until such time as the Purchaser's payment reflects in the Seller's bank account. Each Pro-forma Invoice shall list:
 - 3.3.1. the Goods ordered by the Purchaser (subject to the availability of such Goods);
 - 3.3.2. the purchase price applicable to the Goods ordered ("**purchase price**");
 - 3.3.3. the cost of delivering the Goods to the Purchaser's nominated delivery address ("**delivery fee**") and calculated in accordance with clause 4.3 below;
 - 3.3.4. the due date for payment of the purchase price and the delivery fee as determined by Seller and such payment terms as are applicable; and
 - 3.3.5. the details of the bank account to which all payments to Seller shall be made by the Purchaser.
- 3.4. The Purchaser is informed, and hereby agrees, that delivery of the Goods may be subject to delays beyond Seller's reasonable control, including (without limitation) factory delays, delays by the third-party logistics service provider referred to in clause 4.1 below, custom clearance delays, or delays resulting from governmental regulation (including, without limitation, any delays occasioned as a result of a national lockdown due to Covid-19).

- 3.5. Minimum order value for peak (September to January in each calendar year) and off-peak (February to August in each calendar year) periods will be set by Seller on an annual basis.

4. DELIVERY

- 4.1. Within a reasonable period after receipt of the Purchaser's Pro-forma Invoice and confirmation of adherence to the payment terms (where applicable and as the case may be), Seller shall issue the Purchaser with an Invoice ("**the Invoice**"), and shall thereafter cause the Goods to be delivered to the Purchaser's nominated delivery address through a reputable third-party logistics service provider in accordance with these Terms
- 4.2. In the event that the nominated delivery address for the Goods is located outside of the borders of the RSA:
- 4.2.1. Seller shall cause the Goods to be delivered on a basis as set out in this clause 4.2;
 - 4.2.2. Seller shall accordingly cause the Goods to be delivered to the nominated delivery address;
 - 4.2.3. the Purchaser shall be responsible for unloading the Goods; and
 - 4.2.4. the Purchaser shall be responsible for organising and shall bear any costs in respect of all customs clearing processes in the destination country.
- 4.3. Seller shall be entitled to charge the Purchaser a delivery fee.

5. TRANSFER OF OWNERSHIP AND RISK

- 5.1. In the event of a sale of the Goods to a Purchaser whose nominated delivery address for the Goods is located outside of the borders of the RSA:
- 5.1.1. All risk in and to the Goods shall pass to the Purchaser upon delivery thereof, as contemplated in clause 4.1;
 - 5.1.2. Ownership in and to the Goods shall, despite the passing of risk as contemplated in clause 5.1.1 above, pass from the Seller to the Purchaser upon receipt by the Seller of the full amount of the purchase price, delivery fee, and any other amounts due and/or payable by the Purchaser to the Seller.
- 5.2. In the event of a sale of the Goods on the basis set forth in clause 4.2 above, all risk in and to the Goods shall pass to the Purchaser upon payment by the Purchaser in full. The Seller shall be entitled to deliver such stock as they may have available at the time of the order, and then complete the order in subsequent deliveries, subject to the provision of reasonable notice to the Purchaser.
- 5.3. In all cases where the Purchaser selects to collect the goods from Seller, then the third-party logistics service provider appointed by the Purchaser shall be deemed to be the Purchaser's agent and delivery to such carrier shall be deemed to be delivery to the Purchaser.

6. PAYMENT TERMS

- 6.1. Payment terms relating to each sale of the Goods shall be determined by Seller in its sole and unfettered discretion and on a case-by-case basis. The Purchaser agrees to make payments set out in the Pro-forma Invoice and/or the Invoice within the following period after receipt by the Purchaser of a statement from the Seller:

| |
|-----|
| COD |
| x |

- 6.2. All amounts due in respect of the sale of the Goods by Seller to the Purchaser (including, without limitation, the purchase price and the delivery fee) shall be paid free of exchange, bank fees or set off by the Purchaser into Seller's South African bank account nominated in writing for that purpose.
- 6.3. The Purchaser shall not be entitled, for any cause whatsoever, to withhold, deduct from or defer any amount due by it to Seller. Seller may appropriate all payments from the Purchaser to any such outstanding amounts as it deems fit.
- 6.4. Should the Purchaser make any payments to the Seller after the due date of any such payments, the Seller shall be entitled (without being obliged to notify the Purchaser) to adjust the Purchaser's payment terms to COD for any future orders.
- 6.5. Any overdue amounts owing and payable by the Purchaser to the Seller shall attract interest at the rate of 2% (two percent) per month, calculated from the date upon which the amount became due until date of final payment (both days inclusive).
- 6.6. Settlement discounts shall be forfeited if payment in full is not made on the due date by the Purchaser. This will become due and payable to the Seller.

7. RETURNS POLICY

- 7.1. The Purchaser shall not be entitled to return any Goods to the Seller without the Seller's prior, written consent thereto in each instance.
- 7.2. If written consent is given by the Seller as contemplated in clause 7.1 above, the Purchaser shall be liable for the costs associated with returning the Goods to Seller. The Goods returned must be in their original packaging and the correct unit of measure they were purchased. i.e. a pack of 2 (two). The Seller shall be entitled to charge a handling fee in the event that the Goods are not in their original packaging or in the correct unit of measure.
- 7.3. No claim in respect of shortages of Goods will be entertained by the Seller unless the Purchaser informs the Seller of the shortage of Goods in writing and such written notice is received by the Seller within 2 (two) business days from date of Delivery of the Goods. Failing such written notice, the Purchaser will have no claim whatsoever in respect thereof against the Seller. In the event of shortages of the Goods being proven by the Purchaser to the Seller's satisfaction and upon being properly notified as described above, the Seller will, at its option, either re-deliver the Goods at its own cost, or pass a credit in favour of the Purchaser for the amount of the Purchase Price paid by the Purchaser for the Goods. In the event of an error in delivery, or a mis-delivery, the Seller shall adjust the invoice based on the Goods actually delivered to the Purchaser, or the Seller shall collect the mis-delivered Goods from the Purchaser at its own cost and pass a credit for such mis-delivered Goods in favour of the Purchaser.

8. OBLIGATIONS OF THE PARTIES

- 8.1. Seller undertakes in favour of the Purchaser that it will:
 - 8.1.1. adhere to all laws, regulations or ordinances applicable to it, which relate to the sale of the Goods;
 - 8.1.2. not do anything or allow any act to be done which does or is reasonably and foreseeably likely to prejudice the good name and reputation of the Purchaser.
- 8.2. The Purchaser undertakes in favour of Seller that it will:
 - 8.2.1. provide the contact details of a person with decision-making authority (related to the Purchaser) who will attend to all correspondence from Seller;
 - 8.2.2. provide Seller with clear, timeous and reasonable instructions and directions where necessary;
 - 8.2.3. where required to give its consent or approval, not unreasonably withhold or delay such consent or approval;

- 8.2.4. adhere to all laws, regulations, ordinances or codes of good practice which relate to the Goods or the Terms; and
- 8.2.5. not do anything or allow any act to be done which does or is reasonably and foreseeably likely to prejudice the good name and reputation of Seller.

9. **WARRANTIES, LIABILITY, AND INDEMNIFICATION**

- 9.1. Apart from instances of fraud or gross negligence, the Purchaser agrees to indemnify Seller and hold it harmless from and against any losses, expenses, claims, damage or delay, including loss of profits and consequential loss suffered by the Purchaser or third party as a result of the sale of the Goods. Such loss would also include any harm caused by any of the Goods subsequently found to be unsafe, failed, defective or hazardous and harm caused by inadequate instructions or warnings provided to the end-consumer pertaining to any hazard arising from or associated with the use of any goods.
- 9.2. To the extent that the Consumer Protection Act 68 of 2008 does not apply to the sale of the Goods, and whilst Seller takes all reasonable and commercially-viable precautions in ensuring that the Goods are safe and fit for purpose, Seller does not warrant that the Goods adhere to any safety standards or that the Goods are fit for any particular purpose. Any use or distribution of the Goods by the Purchaser shall be at the Purchasers risk and the Purchaser hereby indemnifies Seller from and against any losses, expenses, claims, damage or delay, including loss of profits and consequential loss, suffered by the Purchaser or any third party as a result of such use or distribution of the Goods.
- 9.3. In the context of international sales, the Purchaser warrants that, at the moment that it accepts the Pro-forma Invoice, it or its duly appointed representative is in possession of any registrations, licenses, permits or other authorisations required in order to:
 - 9.3.1. import and howsoever distribute the Goods in its jurisdiction(s) of intended importation and distribution; and/or
 - 9.3.2. use the Goods or make the Goods available for use by any third parties.

10. **PRODUCT GUARANTEE**

- 10.1. The Goods are guaranteed for:
 - 10.1.1. a period of 3 (three) calendar years from the date of purchase in relation to all bags (with the exception of savvy bags); and
 - 10.1.2. a period of 1 (one) calendar year from the date of purchase in relation to all savvy bags.
- 10.2. The guarantee set forth in clause 10.1 (“**the guarantee**”) covers fair wear and tear, and specifically excludes any Goods damaged, destroyed, or neglected whether intentionally or negligently.
- 10.3. Costs associated with sending the specific Goods to Seller for assessment shall be borne by the Purchaser and/or their customer (as the case may be).
- 10.4. The determination as to whether the guarantee applies to any specific Goods shall be made by Seller in its sole discretion (reasonably exercised). In the event that the guarantee applies, Seller shall at its cost replace the guaranteed Goods and in the event that it cannot be replaced, a credit note shall be issued.
- 10.5. The guarantee is further subject to registration of such guarantee by the Purchaser’s customer [here](#) within 30 (thirty) days after purchase. Failure by the Purchaser’s customer to register the guarantee shall render the guarantee applicable for a period of only 1 (one) calendar year, and Seller shall not be obliged to replace any unregistered Goods thereafter. The Purchaser acknowledges the guarantee policy set forth in this clause 10, and confirms that they shall inform and make it clear to their customers that the guarantee policy requires registration on the Seller’s website. The Purchaser shall

further provide their customers with reasonable assistance in registering and claiming against the guarantee. Any credit provided to the Purchaser without adhering to the guarantee policy set forth herein shall be for the Purchaser's cost.

11. BREACH

- 11.1. Subject to any other provision of the Terms which provide for its own remedies in the event of breach, should any party breach any provision of the Terms and fail to remedy such breach within 10 (ten) Business Days of receipt of written notice from any other party calling upon it to do so, then the aggrieved party shall be entitled to any rights it may have in law, including without limitation the right to claim specific performance of the defaulting party's obligations, and without prejudice to the aggrieved party's right to claim damages.
- 11.2. No cancellation of any sale of Goods will have any effect or consequence on the duty of a Purchaser to pay to Seller any amount of money due to it at the time of cancellation.
- 11.3. For the purpose of the Terms, "**Business Day**" means any day except Saturday, Sunday or South African public holidays.

12. DISPUTE RESOLUTION

- 12.1. In the event of a dispute or disagreement arising between the Purchaser and Seller relating to the Terms, the parties will use all commercially-reasonable avenues available to resolve the dispute amicably, by negotiation and with the best interests of both parties in mind.

General Dispute Rules:

- 12.2. Should the parties fail to resolve a dispute in the aforesaid manner or within such further period as the parties may agree to in their negotiation, as described above, the dispute will be referred to and resolved by arbitration in terms of the Rules of the Arbitration Foundation of Southern Africa ("**AFSA**") by an arbitrator appointed by the parties, or failing agreement by the parties within 7 (seven) Business Days, the arbitrator will be appointed by AFSA.
- 12.3. The arbitrator shall be, if the matter in dispute is mainly:
 - 12.3.1. a legal matter, a practicing attorney or advocate with at least 15 (fifteen) years' experience;
 - 12.3.2. a financial matter, a practicing chartered accountant or auditor with at least 15 (fifteen) years' experience; or
 - 12.3.3. any other matter, an independent third party.
- 12.4. Any arbitration will be held in Cape Town, Western Cape, South Africa and the arbitrator's decision will be binding on the parties.
- 12.5. The parties all agree that in no circumstance will a party publicize the dispute on any public platform, including social media platforms. The parties understand that any publicity of this nature can cause serious damage to the other party or parties, which damage may result in a financial claim.

13. DATA PROCESSING

Any personal information pertaining to the Purchaser shall be processed in accordance with Seller's privacy policy, accessible [here](#).

14. CONSENT TO CREDIT CHECKS

By accepting a Pro-forma Invoice issued by Seller or making payment to Seller in relation to any of the Goods, the Purchaser consents to Seller making any enquiries it deems necessary to validate the identity and/or creditworthiness of the Purchaser. Such validation mechanisms may, without limitation, include requiring the Purchaser to provide Seller with certain documentation, or accessing the Purchaser's credit record held by any registered credit bureaux. The Purchaser hereby consents to Seller performing a credit check on the Purchaser's credit history.

15. FORCE MAJEURE

It is agreed that no party shall be liable for delay or failure to perform any obligations (other than the obligation to pay sums of money that are due, owing, and payable, which obligations shall not be affected by this clause) contained herein if such delay is due to acts of god, fire, earthquake, labour dispute, war, martial law, government order, electrical load-shedding or surges, transportation delays, riot, revolution, epidemic, pandemic, widespread disease, or any other cause beyond the reasonable control of the parties. In the event of a force majeure event, the disrupted party will notify the other parties immediately and use their best endeavours to reduce the delay.

16. SERVICE ADDRESS FOR NOTICES

16.1. Each of the parties choose *domicilium citandi et executandi* (“**service address**”) for the purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purposes arising from the Terms, as follows:

16.1.1. For Seller:

Physical Address: No 4 Brett Park, 17 Jersey Drive, Longmeadow Business Estate, Johannesburg, 1609

Email Address: accounts@totembags.co.za

16.1.2. For the Purchaser, at address as nominated to Seller in writing, as submitted to the Seller website during the order process, or communicated to Seller during the sale process.

16.2. Any notice to a party sent:

16.2.1. by prepaid registered post (or by airmail, if appropriate) in a correctly addressed envelope to an address chosen as its service address to which post is delivered will be considered received on the 10th (tenth) day following the posting (unless the contrary is proved); or

16.2.2. delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its service address will be considered received on the day of delivery; or

16.2.3. sent by e-mail to its chosen e-mail address will be considered received on the date it is sent (unless the contrary is proved).

16.3. Notwithstanding the above, a written notice or communication actually received, such as SMS, iMessage or WhatsApp, by a party will be an adequate written notice or communication to it despite the fact that it was not sent to or delivered at its chosen service address.

17. GENERAL

17.1. **Survival of Rights, Duties and Obligations:** Termination of these Terms for any cause whatsoever will not release a party from any liability which at the time of termination has already accrued to another party or which thereafter may happen as a result of any act or omission prior to such termination.

17.2. **Entire Agreement and Variation:** No alteration, consensual cancellation, variation of, or addition to these Terms will be of any force or effect unless done so in writing and signed by all of the parties. These Terms contain the entire agreement between the parties and no party will be bound by any undertakings, representations, warranties, promises or the like not recorded in the Terms.

17.3. **Counterparts:** The Terms may be signed in any number of counterparts, all of which taken together will be considered one and the same document.

17.4. **Indulgences:** No indulgence, leniency or extension of time which Seller (“**the grantor**”) may grant or show to the other parties will operate as an estoppel or in any way prejudice or preclude the grantor from exercising any of its rights in the future.

- 17.5. **Governing Law:** The Terms are governed by and interpreted in accordance with the law of the Republic of South Africa. All disputes, actions and other matters in connection with the Terms will be determined in accordance with such law.
- 17.6. **Invalidity:** Any provision of the Terms which is held invalid or unenforceable in any jurisdiction will be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions of the Terms, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
- 17.7. **Severability:** Each undertaking in the Terms will be considered as a separate undertaking and if one or more of the undertakings in the Terms is found to be unenforceable or in any way unreasonable, the remaining undertakings will continue to bind the parties. To the extent possible in any jurisdiction to which the Terms may apply or in which the Terms may be enforced, if any undertaking contained in the Terms is found to be void but would be valid if the period of application were reduced or if some part of the undertaking was deleted, the undertaking in question will apply with such modification as may be necessary to make it valid and effective.
- 17.8. **Cumulative Rights and Remedies:** The rights and remedies of the parties under the Terms are cumulative and in addition to any rights and remedies provided by law.

I/We, being duly authorised hereto, hereby agree to be bound by the above standard terms and conditions of trade

Signing on behalf of the purchaser at _____ on this _____ day of _____ 2025

Full Name and Surname in print

for and behalf of

Signature

Accepted on behalf of Splash-Out Pty Ltd at Edenvale on this _____ day of _____ 2025

Full Name and Surname in print

for and behalf of

Signature