

Contract Production Limited

Terms for the Sale of Goods : September 2018 Edition

1. The following terms comprise the contractual terms between the Company and the Customer for the supply of services or sale of goods by the Company. No other terms apply unless varied in writing by the Company and the Customer. Any variation is binding on the Company only if signed by a director or other duly authorised officer of the Company.

2. DEFINITIONS

In these terms the following expressions have the following meanings:-

"Order"	The completed order document or other confirmation which evidences the acceptance by the Customer of the Company's quotation
"Contract"	The Order, these trading terms and any other document agreed by the Company in writing as forming part of the contract
"Goods"	The goods for supply by the Company specified in the Order and where appropriate any services supplied by the Company whether Manufacturing Services or otherwise
"Manufacturing Services"	Means services relating to product manufacture, processing and packaging
"Customer"	The purchaser of the Goods
"Company"	Contract Production Limited (Company number 7050468)

3. CONTRACT

- 3.1 The contract comprises these terms and the Order. No other terms, representations, information or advice given orally or in writing or in the Company's publicity material is of effect unless referred to in the Order.

- 3.2 In the event of inconsistency between these terms and the Company's quotation, the quotation prevails.

4. PRICE

- 4.1 The price of the Goods is set out in the acknowledgment of order issued by the Company. The price is quoted exclusive of VAT and any other duties or taxes unless specifically stated.

- 4.2 The price of the Goods may be subject to a minimum order and this will be indicated on the Company's quotation. The Company reserves the right to increase its prices in relation to small orders and expedited orders.

- 4.3 Within the UK prices are stated ex works unless otherwise agreed between the Customer and the Company.

- 4.4 Subject to clause 4.5, the Company shall maintain the prices set out in its quotation for a period of 30 days from the date of quotation unless otherwise notified on the quotation. In the case of particular materials where commodity prices are volatile the Company will generally reserve the right to increase prices resulting in increases of cost to the Company attributable to such materials.

- 4.5 The Company shall have the right to increase prices to reflect any increase in its costs resulting from:

- (a) any alteration in or addition to the Customer's requirements;
- (b) the Customer's instructions or lack of instructions;
- (c) any interruptions, delays, or additional or overtime work arising from causes for which the Company is not directly responsible;
- (d) any increase in (or new) tax, duties or levies (including VAT) imposed on the Goods;
- (e) fluctuations in foreign exchange rates; and
- (f) increased material costs.

- 4.6 The Company will charge in addition all direct and indirect costs to the Customer relating to the supply of Goods, including, but not limited to artwork, design work, pattern making and storage relating to Goods not collected within 2 weeks of due date for collection.

5. PAYMENT

- 5.1 Payment in full is required 28 days following the date of invoice, unless otherwise agreed in writing when credit terms are offered. If full payment is not made on the due date, the Company may charge interest on the outstanding balance at the rate of 2% above the National Westminster Bank Plc minimum lending rate from time to time in force per month from the date of invoice to the date of payment whether before or after judgment.

- 5.2 The Customer may not withhold payment of any invoice by reason of any right of set-off or any claim or dispute with the Company.

- 5.3 Without prejudice to any other rights of the Company if the Customer fails to make payment when due, the Company is entitled forthwith to cancel the Contract.

- 5.4 The Company shall have the right to invoice the Customer for a partial delivery of the Goods.

- 5.5 Any advance payment made by the Customer at the Company's request shall be held by the Company as a deposit and not a part payment.

6. DELIVERY

- 6.1 Dates and times given for delivery of Goods are estimates and are not a condition of this contract and the Company is not liable for any delay in the delivery of Goods howsoever caused. Time is not of the essence.

- 6.2 If the Company agrees to arrange delivery to the Customer, the Company shall pack and secure the Goods in such a manner as to reach the agreed point of delivery in good condition under normal conditions of transport. The cost of transport shall be charged in addition by the Company and minimum insurance is affected by the Company in relation to this carriage. A copy of the insurance can be supplied on request. The Customer shall be responsible for organising any additional insurance.

- 6.3 Unless otherwise agreed in writing the Company may use any route and means it may select for the transportation of the Goods and will deliver the Goods in such batches or instalments as it considers expedient.

- 6.4 If this Contract is for the delivery of Goods by instalments then failure by the Company to deliver one or more instalment shall not entitle the Customer to claim compensation or to terminate or suspend this Contract or reject those or subsequent deliveries.

- 6.5 (a) If the Customer agrees to collect or arrange for the collection of the Goods from the Company's premises, delivery shall be affected and risk but not title shall pass when the Goods are handed to the Customer or its Carrier at the premises. The Company will notify the Customer when the Goods are ready for collection and the Customer shall collect the Goods within five working days of such notice.

- (b) If the Company agrees to deliver the Goods to a place within the United Kingdom nominated by the Customer, the Company shall engage a carrier for this purpose and shall notify the Customer of expected dates and times of despatch and delivery. The Company does not represent that the expected date or time of delivery will be met. Delivery shall be affected and risk but not title shall pass when delivery is tendered at the nominated place during normal working hours.
 - (c) The Customer shall notify the Company if Goods to be delivered in accordance with sub-paragraph (b) do not arrive within five working days of the expected delivery date.
 - (d) The Customer shall carefully examine Goods delivered in accordance with sub-paragraph (b) on receipt and immediately notify to the Company, and within five working days confirm in writing, details of any short delivery or defects reasonably discoverable on careful examination.
 - (e) The Company shall replace or, at its option, refund the purchase price of any defective or undelivered Goods falling within sub-paragraphs (c) or (d), but shall not be under any other liability to the Customer in this respect. If the Company does not receive the notices referred to in sub-paragraphs (c) or (d), it shall be discharged from all liability (whether arising in negligence or otherwise) arising from non-delivery, short delivery or from such defects
- 6.6 If the Customer does not collect or accept delivery of the Goods in accordance with this paragraph 6, the Company may (without affecting its rights to terminate this Contract) arrange for the storage of the Goods on the Customer's behalf but without liability for any loss or damage occurring after the agreed delivery date. The Customer shall, in addition to the price, pay on demand all reasonable charge for storage, insurance and transport occasioned by its failure to take delivery.
7. **RETENTION OF TITLE**
- 7.1 Title to the Goods is retained by the Company until the Company has received in cleared funds payment in full of the price of all Goods supplied by the Company to the Customer. The Customer holds all Goods owned by the Company as the Company's fiduciary agent and bailee. Until payment the Customer must take all necessary measures for the protection of the Goods including insurance. The Customer must maintain records of the location of the Goods so they remain easily identifiable. The Company may at any time if payment is overdue enter the Customer's premises for the purpose of recovery of the Goods and all costs and expenses reasonably incurred by the Company in connection with that recovery shall be paid by the Customer.
- 7.2 To the extent that Goods are deemed incorporated into other goods owned by the Customer or some other third party, the product becomes or shall be deemed to be owned in common with that other person.
- 7.3 The Customer acts as bailee of the Goods until the Company has been paid in full and shall hold all Goods separately from other goods of the Customer. The Customer is entitled to sell the Goods in the ordinary course of business and shall pay the proceeds of sale to the Company in payment of the Customer's debt to the Company.
8. **GUARANTEE**
- 8.1 The Company provides a 12 months warranty in relation to its Goods and accordingly, but subject to clause 8.2, the Company shall at its option, replace, repair or refund the purchase price of any Goods of the Company's manufacture (which for the purpose of this paragraph 9 shall include any replacement Goods supplied to the Customer pursuant to this paragraph) proved to its reasonable satisfaction to have been delivered short or to be defective provided in each case:
- (a) the short delivery or defect is not one that the Customer should have notified, or did notify, to the Company pursuant to sub-paragraph 6.5; and
 - (b) in relation to a short delivery, the Customer as soon as reasonably practicable and in no event later than 1 week of delivery notifies the Company of the alleged short delivery and if requested by the Company, returns the Goods, carriage paid; and
 - (c) in relation to defective goods, the Customer as soon as reasonably practicable and in no event later than 12 months of delivery notifies the Company of the alleged defect and if requested by the Company, returns the Goods, carriage paid; and
 - (d) the Customer has paid for the Goods in full; and
 - (e) no unauthorised alterations or additions have been made to the defective Goods; and
 - (f) the Goods have been stored, installed, maintained and used in the proper environment, with reasonable care and in accordance with any instructions provided by the Company and the Customer provides full information and documentation to verify compliance with these conditions; and
 - (f) the defect derives solely from the Company's work or materials and was not caused wholly or partly as a result of delivery to the Customer or to its order or of the Customer's or any third party's work, materials or design.
- 8.2 The Company shall not be liable to the Customer for:
- (a) the design of the Goods; or
 - (b) for any over production or short delivery of the Goods within a 10% margin of the number of Goods stated in the Order; or
 - (c) minor defects in not more than 3% of Goods where the Customer has made a bulk order (being an order not necessitating an individual packaging).
- 8.3 The Company shall indemnify the Customer
- (a) if the Unfair Contract Terms Act 1977 and the Unfair Contract Terms Regulations 1994 apply to the supply of the Goods, against liability for personal injury or death directly attributable to the negligence of the Company; and
 - (b) against physical damage caused to the Customer's property directly arising from the negligence of the Company in connection with the supply of Goods.
- 8.4 Save as set out in clauses 8.2 or 8.5 the Company shall not be liable for the Customer
- (a) for loss of profits consequent or any alleged breach or any other consequential loss; or
 - (b) for more than £25,000 (excluding legal costs) with respect to any one claim.
- 8.5 The Company is entitled at its discretion to repay the price for the Goods and make a payment in lieu of damages if it determines not to replace the Goods.
- 8.6 The Customer acknowledges that the price of the Goods reflects the limitations contained in this clause 9. The Company agrees to obtain and maintain insurance policies to a minimum of £25,000 in respect of any one incident with a reputable insurance company.
- 8.7 No officer or employee of the Company shall be liable to the Customer in any circumstances for any loss, expense or damage of any kind (direct, indirect, financial or consequential and whether arising from negligence or otherwise) arising from any act or omission of his during the performance of his employment or other duties. All officers and employees of the Company shall from time to time be entitled to the benefit of the exemptions, limitations, terms and conditions in this contract.
9. **PROPRIETARY RIGHTS**
- 9.1 All copyright, patent, trade secrets and other proprietary and intellectual property rights in the Goods including their packaging remains vested in the Company unless expressly agreed otherwise in writing or save where such intellectual property rights are expressly owned by the Customer.
- 9.2 The Customer shall indemnify the Company against any loss the Company may incur resulting from the infringement of third party patents, trademarks, registered designs, copyrights or other intellectual property or proprietary rights arising in consequence of:-

- (a) use of adoption by the Company of the Customer's parts, designs, specifications or specific instructions; or
- (b) use of the Goods by the Customer in combination with other items where, but for such combination, infringement would not have occurred; or
- (c) use of the Goods by the Customer in a manner or for a purpose not disclosed to the Company before the date of this Contract.
- 9.3 In the event of termination of this contract for any reasons the Company shall not be liable to provide to the Customer any equipment used in relation to the manufacture or packaging of the Goods.
10. **TERMINATION OF THIS CONTRACT**
- 10.1 The Company shall have the right to terminate this Contract immediately without affecting its accrued rights by giving notice to the Customer if:
- (a) the Customer defaults in the payment on its due date of any sum under or pursuant to any transaction under this Contract or commits any continuing or serious breach of this Contract and fails to remedy such breach (if remediable) within 30 working days of the Company's notice to do so; or
- (b) any of the following events occurs:-
- (i) distress or execution is levied against any of the Customer's assets and is not paid or discharged within seven days; or a judgment against the Customer remains unsatisfied for more than seven days; or a receiver is appointed with respect of any of the Customer's assets; or
- (ii) a petition is presented for the winding up of or for an administration order to be made in relation to the Customer or a resolution passed for the Customer's winding up (other than a members' voluntary winding up for the purposes of amalgamation or reconstruction on terms approved in writing by the Company); or
- (iii) the Customer suspends or threatens to suspend payment of its debts or is deemed unable to pay its debts for the purposes of section 123 Insolvency Act 1986; or ceases or threatens to cease to carry on its business or any material part as a going concern; or as a result of any change in the powers, business or circumstances of the Customer it is unlikely to be in a position to fulfil the Contract or any transaction pursuant thereto; or
- (iv) any event in a foreign jurisdiction analogous to, or comparable with, (i) to (iii) above; or
- (c) at any time the Company has reasonable grounds to believe that any of the events mentioned in (a) and (b) above is likely to happen within a period of three months thereafter.
- 10.2 If the Customer cancels this contract before the Order is fulfilled the Company, shall (without limiting its right to claim damages) be entitled to payment of an administrative charge of £250 plus VAT.
- 10.3 On termination of this Contract for any reason including cancellation by the Customer:
- (a) the Company shall be discharged from any further liability to perform under the Contract;
- (b) the Customer shall pay the Company on demand for all work performed by the Company for the Customer prior to termination; and
- (c) the Company is granted an irrevocable licence to enter the Customer's premises to recover any Goods or other materials which are Company's property; and
- (d) the Company is entitled to sell the Goods in the Company's possession.
- 11 **GOVERNING LAW**
- This contract is in all respects governed by English Law.
- 12 **SEVERABILITY**
- Should any provision of this Contract become illegal or void for any reason, the validity of the remaining provisions shall not be affected and the parties shall enter into negotiations in good faith to find a replacement for the provision which is of similar economic effect.
- 13 **WAIVER**
- Failure by either party to exercise any of its rights shall not be a waiver or forfeiture of such rights. Any express or implied waiver by either party of any term or condition of this Contract or of any breach by the other may be terminated by the first party at any time. No such waiver shall constitute a continuing breach nor shall it prevent the other party from acting upon that or any subsequent breach or from a foregoing term or condition of this Contract.
- 14 **FORCE MAJEURE**
- The Company shall not be liable in any way for any failure to perform its obligation or for loss, damage or delay incurred by the Customer resulting from circumstances beyond the Company's reasonable control.
- 15 **COMPLIANCE WITH LEGISLATION**
- It is the Customer's obligation to acquaint itself and to comply with all applicable requirements and restrictions imposed by governmental and other authority or corporations relating to the possession, use import, export or resale of the Goods.