

Ulrick & Short Limited

Conditions of Purchase

1. Interpretation

1.1 In these Conditions the following words shall have the following meanings:

Company	Ulrick & Short Limited or any subsidiary or associated company which purchases Goods from Supplier
Conditions	the standard terms and conditions of purchase set out in this document and (unless the context otherwise requires) any special terms and conditions agreed in writing between Company and Supplier
Contract	the Order and Supplier's acceptance of the Order
Goods	any goods agreed in the Contract to be purchased by Company from Supplier (including any part or parts of the Goods)
Order	Company's written instruction to supply the Goods and/or perform the Services, incorporating these Conditions
Services	any services agreed in the Contract to be purchased by Company from Supplier (including any part of the Services)
Supplier	the person, firm or company who accepts Company's Order

2. Application of Conditions

2.1 These Conditions shall govern the Contract to the exclusion of any terms or conditions endorsed upon, delivered with or contained in Supplier's quotation, acknowledgement or acceptance of order or similar document and shall cancel and supersede any earlier version of Conditions of Purchase of Company and Supplier waives any right which it otherwise might have to rely on such terms or conditions.

2.2 No variation to the Order or these Conditions shall have effect unless expressly agreed in writing and signed by a director of Company.

3. Orders

3.1 The Order constitutes an offer by Company to purchase the Goods and/or the Services in accordance with these Conditions.

3.2 The Order shall be deemed to be accepted and the Contract shall come into existence on the earlier of Supplier issuing written acceptance or doing any act which is consistent with Supplier's acceptance or fulfilment of the Order.

3.3 Only Orders placed on Company's official Order form and accepted by Supplier within the time period (if any) stated on the Order shall be binding on Company.

4. Quality and Defects

4.1 Supplier warrants that the Goods shall:

4.1.1 be of the best available design, quality, material and workmanship, without fault;

4.1.2 conform in all respects with the Order and any specification supplied or agreed to by Company;

4.1.3 match any sample of the Goods approved in writing by Company;

4.1.4 comply with all statutory requirements, regulations and industry codes relating to the Goods; and

4.1.5 be free from adulteration, abnormal tastes or odours and shall not be contaminated by foreign matter.

4.2 The Services shall be performed to the highest standard and conform in all respects with the Order and any specification supplied or agreed to by Company and shall comply with all statutory requirements and regulations relating to the performance of the Services.

4.3 Company's rights under these Conditions are in addition to statutory or other conditions or terms implied in favour of Company.

4.4 Supplier shall maintain and implement quality, specification control, testing and inspection procedures including Hazard Analysis Critical Control Point (HACCP) to enable Supplier to comply with its obligations under the Contract and, at the request of Company, shall supply Company with full details of such procedures and any associated reports.

4.5 At any time prior to delivery of the Goods, Company shall have the right to inspect and test the Goods and the procedures referred to in Condition 4.4. If Company is of the opinion that the Goods do not or are unlikely to conform with the Order or to any specification supplied or agreed to by Company or that the procedures are insufficient or inappropriate to ensure consistent conformity with the Contract, Company shall inform Supplier and Supplier shall immediately take such action as is necessary to ensure such conformity. Notwithstanding any such inspection or testing, Supplier shall remain fully responsible for the Goods and procedures and any such inspection or testing shall not diminish or otherwise affect Supplier's obligations under the Contract.

4.6 Supplier shall comply with all applicable regulations and other legal requirements and the terms of the Order concerning the production, packaging, packing and delivery of the Goods. The Goods shall be marked in accordance with Company's instructions and properly packed and secured so as to reach their destination in an undamaged condition.

4.7 Supplier shall adopt and implement all procedures and other measures necessary to ensure full traceability of the Goods and all ingredients or parts of them.

4.8 If any of the Goods or Services fail to comply with the provisions set out in this Condition 4 Company shall be entitled to any one or more of the remedies listed in Condition 13.

5. Indemnity

- 5.1 Supplier shall indemnify and hold harmless Company against all direct, indirect and consequential liability, loss, damages, injury, costs and expenses (including product recall costs and legal and other professional fees and expenses) (together "Losses") awarded against, incurred or paid by Company as a result of or in connection with:
- 5.1.1 defective Goods or Services including without limitation, defective workmanship, quality or materials;
 - 5.1.2 any infringement or alleged infringement of any intellectual property rights caused by the possession, use, production or supply of the Goods or performance of the Services; and
 - 5.1.3 any claim made against Company in respect of any Losses sustained by Company's employees or agents or by any customer or third party to the extent that such Losses were caused by, relate to or arise from the Goods or the performance of the Services.
- 5.2 Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance with a limit of indemnity of not less than £5 million pounds sterling to cover the liabilities that may arise under or in connection with the Contract, and shall, on Company's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

6. Delivery and Performance

- 6.1 Unless otherwise stated in the Order, the Goods shall be delivered carriage paid, to Company's place of business as specified in the Order. Supplier shall off-load the Goods as directed by Company.
- 6.2 The date for delivery of the Goods shall be specified in the Order, or if no such date is specified delivery shall take place within 28 days of the Order. Supplier shall reserve a delivery time at the appointed delivery address not less than 72 hours in advance of delivery quoting the associated Order number and Supplier shall deliver the Goods at or within the reserved time.
- 6.3 The date or dates for performance of the Services shall be as specified in the Order or such other date or dates agreed by Company.
- 6.4 Time for delivery of the Goods and performance of the Services shall be of the essence.
- 6.5 Supplier shall invoice Company upon, but separately from, despatch of the Goods to Company or completion of the Services.
- 6.6 Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note which shows, inter alia, Order number, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.
- 6.7 Unless otherwise stipulated by Company in the Order, deliveries of the Goods shall be accepted by Company only during normal business hours.
- 6.8 If the Goods are not delivered and/or performance of the Services is not completed on the due date then, without prejudice to any other rights which it may have, Company reserves the right to:
- 6.8.1 cancel the Contract in whole or in part;

- 6.8.2 refuse to accept any subsequent delivery of the Goods and/or performance of the Services which Supplier attempts to make;
 - 6.8.3 recover from Supplier any expenditure reasonably incurred by Company in obtaining the Goods and/or the Services in substitution from another supplier; and
 - 6.8.4 claim damages for any additional costs, loss or expenses incurred by Company which are in any way attributable to Supplier's failure to deliver the Goods or complete performance of the Services on the due date.
- 6.9 Company shall not be obliged to return to Supplier any packaging or packing materials for the Goods, whether or not any Goods are accepted by Company.
- 6.10 Where Company agrees to accept delivery of the Goods by instalments the Contract shall be construed as a single contract in respect of each instalment. Nevertheless failure by Supplier to deliver any one instalment shall entitle Company at its option to treat the whole Contract as repudiated.
- 6.11 If the Goods are delivered to Company in excess of the quantities ordered, Company shall not be bound to pay for the excess and any excess shall be and shall remain at Supplier's risk and shall be returnable at Supplier's expense.
- 6.12 Company shall be entitled to reject any Goods and/or to rectification of any Services which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods or Services until Company has had a reasonable time to inspect them following delivery or performance or, if later, within a reasonable time after any defect in the Goods or Services has become apparent.
- 6.13 Supplier shall give Company prior written notice of:
- 6.13.1 any delivery of the Goods or items accompanying the Goods having toxic or other hazards to the safety or health of persons or property and shall provide full details of such hazards and of all precautions which should be taken by Company in respect of the delivery, storage, handling, installation and use of the Goods or items and provide Company with all information relating to the properties of the Goods or items to enable Company to comply with all relevant legislation relating to the Goods or items and/or such hazards; and
 - 6.13.2 any delivery of Goods which are perishable or have less than 80% of their original shelf life and of any circumstances which may adversely affect the lifespan of such Goods.
- 6.14 Where Supplier performs the Services on Company's premises, Supplier shall, and shall procure that its personnel comply with Company's safety and security regulations and shall not, without the prior written consent of Company, use any of Company's facilities, tools, apparatus or equipment. Where such consent is given by Company, Supplier must satisfy itself as to the fitness and suitability of such facilities, tools, apparatus and equipment and shall assume all liability arising out of their use.

7. Risk and Ownership

The Goods shall remain at the risk of Supplier until delivery to Company is complete (including off-loading and stacking) when ownership of the Goods shall pass to Company.

8. Price

- 8.1 The price of the Goods and/or Services shall be as stated in the Order and, unless otherwise agreed in writing by Company, shall be exclusive of value added tax but inclusive of all other charges.
- 8.2 No variation in the price or extra charges shall be accepted by Company.
- 8.3 Company shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by Supplier.

9. Payment

- 9.1 Unless otherwise agreed in writing, Company shall pay the price of the Goods and/or Services by the end of the month following the month of delivery of the Goods or completion of the Services or, if later, after acceptance of the Goods and/or Services by Company.
- 9.2 Without prejudice to any other right or remedy, Company reserves the right to set off any amount owing from Supplier to Company or claimed from Supplier by Company against any amount payable by Company to Supplier under the Contract or otherwise.
- 9.3 Company may withhold payment where Supplier has not included the Order number and date on notes or any other correspondence relating to the Order.

10. Confidentiality

Supplier shall keep confidential and use for the purpose only of performing the Order all technical and commercial know-how, specifications, inventions, processes or initiatives which have been disclosed to Supplier by Company or its agents, or which are created by Supplier in performing the Order and any other confidential information concerning Company's business or its products which Supplier may obtain and Supplier shall restrict disclosure of such confidential information to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging Supplier's obligations to Company and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality and non-use as bind Supplier.

11. Company's Property

- 11.1 Materials, equipment, tools, dies, moulds and copyright, design rights and all other intellectual property rights in drawings, specifications and data supplied by Company to Supplier shall be used by Supplier only for the production of the Goods for supply to Company or the performance of the Services for Company. Such items shall remain the exclusive property of Company but shall be held by Supplier in safe custody at its own risk and maintained and kept in good condition by Supplier until returned to Company and shall not be disposed of other than in accordance with Company's written instructions, nor shall such items be used otherwise than as authorised by Company in writing. Supplier shall be liable for the full replacement cost of any items lost or damaged during any period in which they are at Supplier's risk.
- 11.2 Any copyrights, design rights or other intellectual property rights created by Supplier in performing the Order shall belong to Company absolutely and shall be used for the purpose only of performing the Order and no other purpose without the prior written consent of Company. At Company's request and expense Supplier shall sign such documents as Company may require to perfect Company's title to such intellectual property rights.

12. Termination of the Contract

- 12.1 Company shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving Supplier written notice whereupon all work on the Contract shall be discontinued and Company shall pay to Supplier reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss.
- 12.2 Company shall have the right at any time by giving written notice to Supplier to terminate the Contract immediately if:
- 12.2.1 Supplier commits a breach of any of the terms or conditions of the Contract;
 - 12.2.2 any distress, execution or other process is levied upon any of the assets of Supplier;
 - 12.2.3 Supplier has a bankruptcy order made against it or makes an arrangement or composition with its creditors or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors or (being a body corporate) convenes a meeting of creditors or enters into liquidation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of Supplier or notice of intention to appoint an administrator is given by Supplier or its directors or by a qualifying floating charge holder, or a resolution is passed or a petition presented for the winding up of Supplier or for the granting of an administration order in respect of Supplier, or any proceedings are commenced relating to the insolvency or possible insolvency of Supplier or anything analogous to any of the foregoing under any jurisdiction occurs in relation to Supplier;
 - 12.2.4 Supplier ceases or threatens to cease to carry on its business; or
 - 12.2.5 Company apprehends that any of the foregoing events is about to occur in relation to Supplier or that the financial position of Supplier has deteriorated to such an extent that the capability of Supplier to adequately perform the Contract has in Company's opinion been placed in jeopardy.
- 12.3 Termination of the Contract for any reason shall be without prejudice to rights of Company accrued prior to termination. Those Conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

13. Remedies

- 13.1 Without prejudice to any other right or remedy which Company may have, if any Goods are not supplied or Services are not performed in accordance with, or Supplier fails to comply with, any of the terms of the Contract, Company shall be entitled to any one or more of the following remedies at its discretion, whether or not any part of the Goods or Services has been accepted by Company:
- 13.1.1 to rescind the Order, to withdraw any other Order(s) and/or to cancel any other Contract(s);
 - 13.1.2 to reject the Goods (in whole or in part) and return them to Supplier at the risk and cost of Supplier on the basis that a full refund for the Goods so returned shall be paid immediately by Supplier;

- 13.1.3 to reject the Services (in whole or in part) on the basis that a full refund for the Services so rejected shall be paid immediately by Supplier;
 - 13.1.4 at Company's option to allow Supplier the opportunity at Supplier's expense either to remedy any defect in the Goods or the Services or to supply replacement Goods and/or Services and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
 - 13.1.5 to refuse to accept any further deliveries of the Goods or performance of the Services but without any liability to Supplier;
 - 13.1.6 to carry out at Supplier's expense any work necessary to make the Goods or Services comply with the Contract; and
 - 13.1.7 to claim such damages as may have been sustained in consequence of Supplier's breaches of the Contract.
- 13.2 Without prejudice to any other right of Company, where under the terms of any warranty or guarantee given by Company on the resale of the Goods or on the sale of any goods in which the Goods are comprised, Company is responsible for the repair or replacement of the Goods, Supplier shall, if requested by Company, repair or replace the Goods (as directed by Supplier) and reimburse or pay to Company all transport and labour costs incurred by Company in satisfying the claim under the warranty or guarantee.

14. Product Recall

If Supplier is made aware of any defect with the Goods before or after delivery, or any order from a competent court or regulatory authority requiring the Goods to be withdrawn from sale or any other material error in respect of the Goods, it shall notify Company immediately and supply all information as may be necessary to enable Company to identify the relevant problem and the Goods affected. Supplier shall co-operate with Company and comply with all reasonable instructions of Company in relation thereto.

15. Force Majeure

Company reserves the right to defer the date of delivery of the Goods or performance of the Services or payment or to cancel the Contract or reduce the volume of the Goods or the extent of the Services ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of Company including, without limitation, acts of God, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

16. General

- 16.1 Supplier shall not be entitled to assign or sub-contract the Contract or any part of it without the prior written consent of Company.
- 16.2 Company may assign the Contract or any part of it to any person, firm or company.
- 16.3 Supplier shall not use the Contract or the name, logo or other intellectual property right of Company in any advertising or promotion without Company's prior written consent.

- 16.4 Failure or delay by Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 16.5 Any waiver by Company of any breach of, or any default under, any provision of the Contract by Supplier shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 16.6 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 16.7 The formation, existence, construction, performance, validity and all other aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English Courts.