

TERMS AND CONDITIONS OF BUSINESS

1. DEFINITIONS

1. In these conditions:-

1.1 "The Company" means C Jackson & Sons Ltd.

1.2 "The Customer" means the individual, Firm or Company with whom the Company Contracts, whether by the Customer, or other person or Agent representing or acting on behalf of the Customer.

1.3 "Goods" means all goods, articles and materials supplied/to be supplied by the Company to the Customer and whether or not in conjunction with the work.

1.4 Work" means any work done/to be done by the Company whether by way of packaging, transporting or otherwise.

2. GENERAL

2.1 Any contract howsoever made between the Company and the Customer ("The Contract) shall incorporate and be subject to these conditions of business.

2.2 Any statement or representation written or oral made or given prior to the date of the Contract is hereby excluded unless expressly incorporated therein.

3. ESTIMATES AND QUOTATIONS ("ESTIMATE")

3.1 Any estimate given by the Company is only an invitation to the Customer to make an offer and no order of the Customer placed with the Company in pursuance of an estimate or otherwise shall be binding on the Company unless and until it is accepted by the Company.

3.2 An estimate is considered an approximation of the likely cost involved in Goods or Work. All estimates are valid for 28 days from the date of despatch of the estimate by the Company to the Customer.

4. PRICES

4. Unless otherwise provided in the Contract.

4.1 The price of Goods and/or Work is exclusive of Value Added Tax or other Taxes Levies or Duties which may be attracted by the Goods or the Works and which will be charged at the rate applicable at the appropriate tax point.

4.2 The price of Goods excluded the cost of carriage from the Company's premises, unless expressly stated in writing to the contrary.

4.3 If after the date of the Company's acceptance of an Order any change shall occur in the costs of supplying Goods and/or Work including changes in the cost of materials, labour, storage, transport and other services or other items including overheads which the Company has to pay or incur in the performance of the Contract, then the amount of any increase in such costs shall be added to the Contract Price and the Customer shall pay the resultant increased price. A certificate of the Company's auditors certifying the amount of any such increase shall be conclusive and binding on the Customer and the Company.

4.4 Where any estimate by the Company is based on a specific delivery or performance period, the Company reserves the right to vary the price should the Customer require delivery or performance over a different period.

4.5 If for any reason Work requested (with or without Goods) by the Customer is not carried out in full the Company will charge a reasonable amount for work actually carried out and the current price of any Goods supplied.

4.6 The cost of any variation or modification in relation to Goods or Work requested by the Customer after the date of the Company's acceptance of an Order shall, if such variation or modification is accepted by the Company be born by the Customer and any such variation or modification shall be deemed to an amendment to this Contract and shall not constitute a new Contract.

5. DELIVERY OF GOODS AND RISK

5.1 The risk in respect of Goods shall pass to the Customer at the time of delivery and from that time, the Customer should effect insurance of the Goods of required. Notwithstanding such delivery, the property in and title to Goods shall not pass to the Customer except as provided in Clause 6.

5.2 Where damage to or loss of any Goods (or any part or parts thereof) occurs before delivery to the Customer or the Company omits to delivery and part of the Goods the Company undertakes and subject as provided below to repair or (at its discretion) to replace free of charge any Goods (or any part or part thereof) so damaged or lost and to deliver any Goods it has omitted to deliver in which event the time for delivery of the repaired, replacement or omitted Goods shall be extended for such period as the Company shall reasonably require for that purpose. The foregoing undertaking of the Company is conditional upon:-

(i) the Customer giving written notice ("Notice of Rejection") to the Company (and any carrier if appropriate) of damage loss or omission within 5 days of delivery and

(ii) the Customer if requested by the Company and at the Customer's cost returning any damaged Goods to the Company within 5 days of request.

5.3 If after the Notice of Rejection has been given the Customer purports to deal with the Goods as owner thereof (if unpaid for) or of any conduct of the Customer is inconsistent with such rejection or with any ownership of the Goods by the Company the Customer shall be deemed to have accepted them and be bound to pay the Contract Price.

5.4 Where Goods are delivered direct to the Customer by or collected by the Customer from any manufacturer or supplier to the Company the Company shall not be liable for any damage to or loss of the Goods whatsoever or whensoever occurring.

5.5 Save as expressly provided in this Condition, the Company shall not have any liability whatsoever for or in connection with any damage to Goods.

6. TITLE

6.1 Until the contract price of the Goods and all other monies due under the Contract between the Company and the Customer has been paid or satisfied in full:-

6.2 The title to and property in the Goods shall remain vested in the Company (notwithstanding the delivery of the same and the passing of the risk).

6.3 The Company may at any time recover and resell the Goods (if in the possession or under control of the Customer) if the Customer commits any breach of the Contract and fails to remedy such breach within a period of thirty days from receipt of notice in writing from the Company requesting such breach to be remedied or any distress or execution is levied upon any of the Goods or property of the Customer or the Customer (or the Customer being a Partnership any Partner thereof) offers to make any arrangement with or for the benefit of Creditors or commits an act of bankruptcy or a Petition for Bankruptcy is presented against the Customer or the Customer has a Receiver appointed of the whole or any part of its undertaking property or assets or an Order is made or a Resolution is passed or proceedings are taken for the winding up of the Customer or if any sum owed by the Customer to the Company under any Contract is not paid on the due date for payment. For the purpose of exercising its rights under the Sub-Clause the Company its servants or agents together with all necessary and appropriate transport shall be entitled so far as possible to free and unrestricted entry upon the Customers premises or any other location where the Goods are situated.

6.4 The Customer shall be in possession of the Goods as bailee of the Company. If the Company so requires the Customer shall store the Goods for the Company in a proper manner without charge to the Company and ensure that they are clearly identified as belonging to the Company.

7. PERFORMANCE

7.1 The Company shall use its reasonable endeavours to comply with any date or dates for despatch or delivery of Goods or for performance of Work as stated in the Contract. Unless otherwise expressly provided such date or dates shall constitute only statements of expectation and shall not be binding. If the Company having used its reasonable endeavours fails to despatch or deliver Goods or perform Work by such date or dates, such failure shall not constitute a breach of the Contract entitling the Customer to treat the Contract as thereby repudiated or to rescind it or any related Contract in whole or in part or claim compensation for such failure or for any consequential loss or damage resulting there from.

7.2 If the Company is prevented or hindered from performing the Contract or any part thereof by any circumstances beyond its control including (but without limiting the generality of the foregoing) strikes, lock-outs or other industrial action, inability to obtain supplies of the Goods, interruption of transport or other services or destruction of the Goods further performance of the Contract shall be suspended for so long as the Company is so prevented or hindered provided that in the event that the performance of the Contract shall be suspended for more than 3 consecutive calendar months the Customer shall be entitled by notice in writing to the Company forthwith to terminate the Contract or to cancel any outstanding part thereof and in such circumstances the Customer shall pay at the Contract rate for all Goods and /or Work supplied by the Company to the date of such termination. The Company shall not have any liability to the Customer for any direct or consequential loss or damage suffered by the Customer as a result of the Company's inability to perform its obligations under the Contract in the aforementioned circumstance.

7.3 If the performance of the Contract is suspended at the request or delayed through default of the Customer including (without prejudice to the generality of the foregoing) lack of incomplete or incorrect instructions or refusal to collect or accept delivery of Goods for a period of 7 days or more, the Company shall be then entitled to payment at the Contract rate of Goods supplied or ordered or any other additional costs thereby incurred including storage and insurance Provided that if the Customer fails to collect or accept delivery of Goods or any part thereof within 28 days of written notification from the Company that the Goods are ready for collection or delivery, the Company shall be entitled (without prejudice to its other remedies under the Contract for such breach) to sell the Goods and to apply the proceeds of sale thereof towards payment of all sums due to the Company under the Contract or any other Contract between the Company and the Customer.3

7.4 Where Goods are delivered by instalments each such instalment shall be deemed to be sold or supplied under a separate Contract to which these Conditions shall apply (mutatis mutandis) and no default in respect of any one instalment shall affect or prejudice due performance of the Contract as regards any of the instalments.

7.5 Where Goods are to be supplied or delivered by the Company in accordance with periodic delivery schedules or similar written notification of the delivery requirements of the Customer, the Customer shall not be entitled to cancel or vary and such delivery schedule or requirements without the prior written consent of the Company and the Company shall be entitled to reimbursement of any additional costs and expenses incurred or suffered as a result of such cancellation or variation.

7.6 The Company shall be entitled to carry out its obligation under the Contract by Sub-Contractors but shall remain responsible for quality of Sub-Contractors work.

8. PAYMENT

- 8.1 Unless the Contract otherwise provides, the Contract price for goods and /or work shall be payable upon delivery and/or completion.
- 8.2 Unless otherwise agreed in writing the Customer shall not be entitled to set off against any monies due to the Company under the Contract, any amount claimed by or due to the Customer from the Company whether pursuant to the Contract or on any other account whatsoever.
- 8.3 The Company shall be entitled to interest on any monies due to it and not paid by its due date from that date until actual payment at the rate of Four per cent per annum above the Base Rate (or any reasonable equivalent thereof) of National Westminster Bank Plc prevailing from time to time during such period.

9. WARRANTY

- 9.1 Where after delivery or completion the quality of any Goods or Work (or any part thereof) is shown by the Customer to the reasonable satisfaction of the Company to be defective the Company shall at its sole either:-
- (1) repair or deliver replacement Goods (or any part thereof) to the Customer or re-execute the Work or such part thereof as is necessary.
 - (2) refund to the Customer the Contract price of such Goods or Work or
 - (3) require the Customer to retain the Goods and grant to the Customer a reasonable allowance in respect of the defect.
- PROVIDED THAT:-
- (i) the Customer notified the Company in writing within fourteen days of becoming aware of the defect and
 - (ii) if so required by the Company all defective Goods are first returned to the Company's premises carriage paid by the Customer and
 - (iii) Goods have been properly and correctly stored and/or used by the Customer and in accordance with any manufacturers instructions and
 - (iv) the liability of the Company for any such defects shall be limited as provided in Clauses 10.1 and 10.2

10. LOSS OR DAMAGE

- 10.1 The liability of the Company for any claim or claims for direct injury, loss or damage made by the Customer against the Company whether in contact or in tort (including negligence) on the part of the Company, its servants or agents arising out of or in connection with any defect in the goods or in the performance of the Contract or any act, omission, neglect or default whether or not the same constitutes a fundamental breach of Contract or the breach of a fundamental term thereof (including, without limiting the generality of the foregoing breach of any condition or warranty whether express or implied by statute, common law or otherwise howsoever) shall be limited.
- 10.1.1 in the case of any defect in Goods to the Contract price of the Goods the subject of the claim or claims.
- 10.1.2 where related to the Work Exclusive to the total contract price payable for the Work by the Customer under the contract.
- 10.1.3 where related to the Work any damage or loss sustained to Goods of the Customer (not being Goods concurrently supplied by the Company) to the value of the Customer's Goods Provided Always
- (a) The Customer shall have first declared in writing to the Company the identity of the Goods and it's opinion of the value of Goods (without that being conclusive evidence as to value)
 - (b) The Company at its option may repair or replace damaged or missing goods
 - (c) That the Company shall not be liable for loss or damage howsoever caused
 - (i) by any risks insured against by the Customer or which having regard to the nature of the Goods should properly and usually have been insured against by the Customer.
 - (ii) by war, invasion, acts of foreign enemies, hostilities (whether war be declared or not) civil war, rebellion inspection, wear and tear or gradual deterioration, leakage or deficiency of goods of a perishable or leaky nature, acts of God.
 - (iii) by the failure of the Customer to disclose special treatment required for goods of a special nature of where goods are proven to have an inherent defect.
- 10.2 The Company shall not be liable for indirect or consequential injury loss or damage suffered by the Customer whether the Customers claim is made in Contract or in tort (including negligence on the part of the Company its servants or agents) arising out of or in connection with any such defect, act, omission, neglect or default referred to in Sub-Clause 11.1
- 10.3 The Company shall be discharged from any liability howsoever arising unless notice of loss of damage be received by the Company in writing within 5 days of when the loss or damage was ascertainable, time being of the essence.
- 10.4 Nothing in these conditions shall:-
- (1) limit or exclude the liability of the Company in respect of death or personal injury resulting from the negligence of the Company its servants or agents or
 - (2) limit or exclude the respective rights and remedies of the Company and the Customer under The Unfair Contract Terms Act 1977 or
 - (3) exclude the conditions and warranties contained or implied by Statue.

11. INSOLVENCY AND BREACH OF CONTRACT

- In the event that:-
- 11.1 The Customer commits any breach of the Contract and fails to remedy such breach (if capable of remedy) within a period of thirty days from receipt of notice in writing from the Company requesting such breach to be remedied or
- 11.2 Any distress or execution is levied upon any of the Goods or property of the Customer or
- 11.3 The Customer (or where the Customer is a partnership any partner thereof) offers to make any arrangements with or for the benefit of its or his creditors or commits any act of bankruptcy or if a Petition for Bankruptcy is presented against the Customer or
- 11.4 The Customer (being a Limited Company) has a Receive appointed or the whole or any part of its undertaking property or assets or an order is made or a resolution is passed or analogous proceedings are taken for the winding up of the Customer (save for the purpose of reconstruction or amalgamation without insolvency).
- The Company shall thereupon be entitled without prejudice to its other rights hereunder, forthwith to suspend all further performance of the Contract until the default has been made good or to terminate the Contract or any unfulfilled part thereof or at the Company's option to make partial supply of Goods. Notwithstanding any such termination, the customer shall pay to the Company at the Contract rate for all Goods delivered or Work performed up to and including the date of termination.

12. SEVERANCE

If at any time one or more of the provisions of these Conditions become invalid, illegal or unenforceable in any respect, the validity and enforceable of the remaining provisions hereof shall not in any way be affected or impaired thereby.

13. WAIVER

The rights and remedies of the Company under the Contract shall not be diminished waived or extinguished by the granting of any indulgence, forbearance, or extension of time by the Company nor by any failure of or delay by the Company in asserting or exercising any such rights or remedies.

14. COPYRIGHT

The Customer shall indemnify the Company against all damages penalties costs and expenses to which the Company may become liable as a result of Goods supplied or Work done in accordance with the Customer specifications which involves infringement of any letter patent copyright or registered design.

15. ASSIGNMENT

The benefit of the Contract shall not be capable of assignment by either of the parties without the consent in writing of the other party.

16. NOTICES

Any notice to be served under these conditions in the case of the Company shall be served at its Registered Office and in the case of the Customer at the address or such other address as the Customer shall in writing notify the Company. Notices shall be sent by First Class Post and shall be deemed to have been received two working days after posting.

17. ENGLISH LAW

These conditions and each and every Contract made pursuant thereto shall be governed by and construed in all respects in accordance with English Law and the Company and the Customer irrevocably submit themselves to the jurisdiction of the English Courts. This contract shall be deemed to have been entered into at the address of the Company overleaf.