

Cole-Parmer Limited - Terms and Conditions of Sale

1. DEFINITIONS

- 1.1 In these conditions:
- "Buyer" means any company, firm or individual from whom the Company receives an order for Goods;
- "Company" means Cole-Parmer Limited (company registration number 06381141) of Beacon Road, Stone, Staffordshire, ST15 0SA, United Kingdom;
- "Consumer" means an individual based in the United Kingdom buying Goods for private use and not for use in its business;
- "Contract" means the contract between the Buyer and the Company for the supply of Goods formed in accordance with clause 2;
- "Goods" means the product, materials, equipment and/or services to be supplied by the Company under the Contract;
- "IPRs" means any patent, trade mark, registered design right, copyright or any other intellectual property right;
- "Losses" means any loss of profit, revenue or goodwill and any costs (including the cost of labour and materials), damages (including to reputation), charges and expenses (including legal expenses) which are incurred directly or indirectly by the Company or the Buyer (as the context so specifies);
- "Specification" means the Buyer's specific instructions as to the technical qualities and requirements of the Goods;
- "in Writing/Written" means any communication made in writing, including fax or email.
- 1.2 Words importing the singular number will include the plural and vice versa; words importing the masculine will include the feminine and neuter and vice versa; words importing persons will include bodies corporate, unincorporated associations and partnerships; and the word 'including' will be deemed to be followed by the words 'without limitation'.

2. THE CONTRACT

- 2.1 The Buyer's order will be deemed to be an offer to buy Goods subject to these conditions. The Company is not bound to supply such Goods, and the Contract is not formed, unless and until the Company has acknowledged the order in Writing, such acknowledgement being deemed to be an acceptance of the Buyer's offer, subject to these conditions.
- 2.2 The Contract will consist of these conditions and the Written acknowledgement specified above. Any terms and conditions of the Buyer are rejected and superseded by these conditions, whether or not the Company has notice of them.
- 2.3 No variation of the Contract will be valid or binding unless it is made in Writing and signed by the Company.
- 2.4 The Company reserves the right to charge an administration fee for any amendments to the Contract requested by the Buyer after the Contract has been acknowledged in Writing.

3. IPRS AND THE SPECIFICATION

- 3.1 If the Buyer provides a Specification, it does so with the warranty that nothing in the Specification infringes the IPRs of anyone, and the Buyer will indemnify the Company in full for any Losses arising due to a breach of this warranty. The Company will not be liable for any Losses of the Buyer arising from the inadequacy of Goods made in compliance with a Specification. Any technical or other advice that the Company may have given to the Buyer was provided in good faith for information only, and the Company will not be liable for any Losses arising as a result of this advice.
- 3.3 The Company reserves the right to amend the Specification to ensure that the Goods comply with applicable laws and regulations.
- 3.4 All IPRs that are created pursuant to the carrying out of the Contract by the Company belong solely to the Company and the Buyer will have no rights in respect of such IPRs. The Buyer will indemnify the Company in full for any Losses due to the unauthorised use of the Company's IPRs.

4. PRICES

- 4.1 Unless fixed prices have been agreed in Writing, all prices are subject to alteration prior to dispatch of the Goods. Any quotation, tender price or price list that has been communicated by the Company prior to conclusion of the Contract is for information only.
- 4.2 Unless otherwise agreed in Writing, all prices are net of delivery charges, VAT, customs charges and any other applicable taxes and charges, which will be notified to the Buyer at the time of payment (if known) and added to the total price payable.
- 4.3 All consular and bank charges, import and customs duties and taxes that arise from, or by virtue of, the Contract must be paid by the Buyer.
- 4.4 The Company reserves the right to amend any agreed prices in the event of an obvious mistake or clerical or typographical error.

5. PAYMENT

- 5.1 Unless otherwise agreed in Writing, all accounts are payable in advance of delivery within 14 days of the Company's invoice. All invoices must be paid in the currency specified on the invoice.
- 5.2 At its discretion, the Company may agree a credit limit with the Buyer. Where such a limit has been exceeded, the Company may request the payment of all outstanding invoices before releasing further shipments. Such payments will be a condition precedent to any further deliveries.
- 5.3 For overseas orders, the Company may (at its discretion) request payment via letter of credit established in favour of the Company at the time of the Buyer's order. Such a letter must be confirmed and advised via a first-class British Clearing Bank acceptable to the Company and maintained valid for cash drawing against presentation of the Company's invoice(s) until the final contract payment, but in any case for at least 3 months after completion of the Contract (to be arranged by the Buyer upon request). In such circumstances, the letter of credit will be a condition precedent to the acceptance of the order and the formation of the Contract.
- 5.4 Where the Buyer fails to pay any sum payable under this Contract when due, the Company reserves the right to:
- re-allocate the Goods;
 - cancel the order; and/or
 - charge interest at the rate of 2% per month above the base rate from time to time of HSBC Bank Plc, from the due date until full payment is received.
- 5.5 No claim by the Buyer will entitle it to any deduction, retention or withholding of any part of the sums due under this Contract and the Buyer is not entitled to any set-off within or between contracts with the Company.

6. DELIVERY

- 6.1 The Company will not deliver Goods, directly or indirectly, to addresses in any of the following countries: Cuba, Iran, Libya, North Korea, Sudan and Syria.
- 6.2 The Company dispatches its Goods via various methods. If the Buyer is a Consumer, the Goods will be dispatched, at the Company's risk, direct to the Buyer's nominated address unless otherwise agreed. In all other cases, the method of despatch will be notified to the Buyer by reference to the appropriate Incoterm®.
- 6.3 The Buyer has no right to request that the Company engages a particular carrier or takes out a particular insurance policy. If the Buyer objects to the Company's proposed carrier or insurer, it has the right to arrange for collection of the Goods itself on notice to the Company. The Company reserves the right to charge a storage fee if the Buyer fails to collect the Goods within 5 days of the Company's notification that they are ready for transport.
- 6.4 Where the Buyer is a Consumer, the Goods will be deemed delivered when they are unloaded at the delivery address nominated by the Buyer, unless the Goods are to be collected by the Buyer, in which case delivery is effective when the Goods are loaded onto the Buyer's carrier. In all other cases, the Goods will be delivered in accordance with the applicable Incoterm®.
- 6.5 The Company will not be liable for any Losses incurred by the Buyer where the Buyer has arranged for the transport of the Goods. Where the Goods are transported at the Company's risk and suffer loss or damage, the Buyer must inform both the Company and its carrier in Writing of the Losses it has incurred within 4 days of delivery. If, due to the Buyer's failure to notify the Company in this way, the Company is prevented from claiming against its carrier, the Company will not be liable for the Losses of the Buyer and the Buyer will pay the full price for the Goods as detailed in the invoice.
- 6.6 The Company reserves the right to deliver the Goods by instalments. In such event, each instalment is a separate Contract, provided that further deliveries may be withheld until full payment for earlier Goods is received.

7. TIME FOR DELIVERY

- 7.1 Goods are sold subject to availability. Thus, all dates quoted for delivery are estimates only and are not conditions of sale.
- 7.2 No claim will be made by the Buyer, nor will the Buyer refuse to accept delivery of the Goods, on the grounds of the Company's failure to deliver the Goods on any particular date(s).
- 7.3 Without prejudice to the foregoing, where the Buyer is a Consumer, delivery will be without undue delay, and in any event within 30 days of acceptance of the order, unless the Buyer orders made-to-order or bespoke Goods, which will be delivered as soon as reasonably possible.

8. QUANTITY ORDERED AND DELIVERED

- 8.1 Goods can only be supplied in the quantities specified in the Company price lists, or in multiples thereof. The Company will endeavour to produce and deliver the quantity of Goods ordered, but every Contract is subject to the margins of tolerances customary in the trade.
- 8.2 The Company will not be liable for any Losses of the Buyer due to missing Goods where the delivery is otherwise within the tolerances mentioned above, and the Buyer has no right to refuse to accept delivery of the Goods in such circumstances.
- 8.3 Where the Buyer has incurred Losses due to missing Goods beyond the tolerances mentioned, the Company will not be liable for such Losses unless the Buyer informs the Company of the Losses within 4 days of delivery of the Goods.

9. PACKAGING

- 9.1 Prices include the cost of the Company's normal packaging for destinations within the United Kingdom or for export, unless stated otherwise in Writing.
- 9.2 The Buyer may request additional or different packaging and will pay the Company the difference in price between the packaging.
- 9.3 The Company will not be liable for any Losses of the Buyer that arise due to the failure or inadequacy of the Buyer's packaging.

10. NON-ACCEPTANCE OF DELIVERY

- 10.1 If the Buyer refuses or fails to take or accept delivery of the Goods without proper cause, the Company's invoice will nevertheless be payable as if delivery had taken place.
- 10.2 In the event of a non-acceptance of delivery, the Company may, at its option:
- terminate the Contract with immediate effect;
 - dispose of the Goods as the Company may determine and recover any Losses incurred in doing so from the Buyer; and/or
 - charge the Buyer a storage fee for the storage of the Goods until delivery can be attempted again.
- 10.3 The Company will not be liable for any Losses of the Buyer that arise due to a failed delivery attempt, nor for any Losses of the Buyer that arise between delivery attempts.

11. PASSING OF RISK AND TITLE

- 11.1 The risk in the Goods will pass to the Buyer upon delivery in accordance with clause 6.4.
- 11.2 The title in the Goods will pass to the Buyer upon receipt by the Company of full payment for the Goods and any other monies owing to the Company.
- 11.3 Until title in the Goods has passed in accordance with clause 11.2, the Buyer will:
- hold the Goods as bailee of the Company and in a fiduciary capacity;
 - insure the Goods against loss or damage by normal risks and, in the event of loss or damage, account to the Company for the proceeds of insurance to the value of the Buyer's total indebtedness to the Company;
 - not sell, dispose of, process or use the Goods except with the Written consent of the Company, which will be granted on the conditions that any proceeds of sale of the Goods are not mingled with any other monies, are kept in a separate bank account and are otherwise identifiable as the Company's money; and
 - store the Goods separately from other goods in its possession so as to be clearly identifiable as the Company's Goods.
- 11.4 In the event that the Buyer breaches any of its obligations in this Contract, or any other agreement with the Company, the Company reserves the right to repossess any and/or all of the Goods, or the proceeds of sale of the Goods (as the case may be), to which it has retained title and resell them for the purpose of satisfying the total indebtedness of the Buyer to the Company, and the Buyer grants the Company an irrevocable and unrestricted licence to enter onto its premises to exercise this right.

12. CANCELLATION

- 12.1 If the Buyer is a Consumer and wants to cancel the Contract, it must:
- do so at any time within 14 days of delivery of the relevant Goods - **cancellations made after 14 days will not be accepted**; promptly contact the Company's Customer Service team by emailing enquiries@coleparmer.com and stating its desire to cancel the Contract and quoting the relevant order number and delivery address;
 - return all of the Goods delivered to it under the Contract unused, and at its own cost, to the Company; and
 - take reasonable care of all the Goods in its possession until they are delivered to the Company.
- 12.2 If the above conditions have been complied with, the Company will issue a credit note for the full amount of the Contract once the Goods have been received, unless the Buyer has failed to take reasonable care of the Goods, in which case a partial refund will be issued.
- 12.3 If the Buyer is not a Consumer and wants to cancel the Contract, it must inform the Company of its desire to cancel the Contract at any time before dispatch of the Goods, but the Company may (at its discretion) not accept such cancellation. Any cancellation that is accepted by the Company will be subject to such terms as the Company may specify.
- 12.4 The cancellation rights detailed in this clause 12 are not available where the Contract concerns made-to-order or bespoke Goods, or Goods with a specified shelf life, whether or not the Buyer is a Consumer.

13. WARRANTY AND RETURNS

- 13.1 The Company is under a legal duty to supply Goods that conform with the Contract. Therefore, the Company provides various warranties in respect of the Goods, the details of which are set out on the Company's website.
- 13.2 No warranty, condition or representation is given or made as to:
- the quality of the Goods;
 - the condition of the Goods;
 - the fitness for any particular purpose of the Goods; or
 - the compliance with any particular laws and/or regulations other than those of the United Kingdom, or those stated in the Specification (if any).
- other than as specified in these conditions, and it is the Buyer's responsibility to determine if the Goods are appropriate for its contemplated use. Any warranty, condition or representation, whether express or implied, by statute, collateral agreement or otherwise in respect of the above elements is expressly excluded by the Company, save that nothing in the Contract will affect the statutory rights of Buyers who are Consumers, which override any conflicting provisions of the Contract.
- 13.3 Subject to clause 13.4, the Buyer may request to return Goods to the Company for credit for any reason other than under the warranty at any time within 45 days of the date of the Company's invoice. If it wishes to return Goods, the Buyer should contact pservice@coleparmer.com stating its desire to return Goods for credit and specifying the model and serial number of the Good(s) and the invoice number to be credited. **No return will be accepted without the approval of the Company.** Goods must be returned to the Company's business address in the original packaging and in a new and unused condition.
- 13.4 Where the Buyer has bought the Goods from an authorised distributor of the Company, it should instead return the Goods to, and otherwise liaise with, that distributor and not the Company.
- 13.5 Goods must be returned to the Company's business address in a new and unused condition with a decontamination certificate or the Company will refuse the return.
- 13.6 All returns are at the cost and risk of the Buyer. The Company will not collect returned Goods from airports or ports, nor pay any clearance charges or storage charges.
- 13.7 The Company reserves the right to charge a re-stocking fee of up to 20% of the price paid for the Good for a return under this clause 13.
- 13.8 All credits due for a return will be paid to the original Buyer on the invoice and not to any third party.
- 13.9 In the event that Goods are returned for the purposes of effecting a repair outside of the warranty, the Company reserves the right to charge for such a repair. Any such charge must be paid within 6 months of the return, otherwise the Company will dispose of the returned Good.
- 13.10 In the event that the Company receives a returned Good but cannot trace the Buyer who sent it, the Company will dispose of the Good within 6 months of the return, whether or not the Good is under warranty.

14. LIABILITY

- 14.1 The Company's total aggregate liability to the Buyer, whether for negligence, breach of contract, misrepresentation or otherwise, will not exceed the total price for the defective Goods under any circumstances.
- 14.2 The Company will not, under any circumstances, be liable for any indirect or consequential Losses of the Buyer. In particular, the Company will not be liable for any Losses arising from the failure of the Buyer to ensure that the Goods are fit for its purposes or for Losses arising due to the Goods being improperly used.
- 14.3 Nothing in this clause 14 will exclude or limit the Company's liability:
- for death or personal injury caused by its negligence;
 - for fraudulent misrepresentation; or
 - for any duties owed to Consumers.

15. TERMINATION

- 15.1 Without prejudice to its other rights or remedies, the Company may terminate the Contract immediately on Written notice if the Buyer:
- becomes bankrupt or insolvent;
 - fails to pay any amount falling due under the Contract within 30 days of the due date for payment;
 - has a receiver, administrator or equivalent appointed;
 - passes a resolution for its winding-up (other than for the purposes of a reconstruction or amalgamation of a solvent business);
 - suffers any distress over any of its assets; or
 - commits a material breach of the Contract, or any other agreement with the Company.
- 15.2 Upon termination, all outstanding invoices will become immediately due and all orders that are being processed or delivered under other agreements with the Company will be immediately cancelled without refund.

16. FORCE MAJEURE

- 16.1 Neither party will be liable for any Losses due to the delay in, or failure of, performance of an obligation in the Contract where that delay or failure is due to an unforeseen event outside the reasonable control of the party affected.
- 16.2 Where a party is affected by such an event, it must inform the other party in Writing as soon as reasonably practicable and, where possible, provide an estimate for the duration of the disruption.
- 16.3 Where the disruption lasts, or is estimated to last, for longer than 3 months, either party may terminate the Contract immediately on Written notice without liability to the other party.

17. DISPUTE RESOLUTION

- 17.1 If the Buyer wishes to complain about the Goods received, or has any other dispute arising under the Contract, it should first contact the Company's Customer Service team on 01785 812121, or by emailing enquiries@coleparmer.com, who will attempt to bring the complaint to a satisfactory resolution.
- 17.2 If the Company's Customer Service team cannot satisfactorily resolve the complaint, they will refer the complaint to a member of the senior management of the Company to attempt to resolve the complaint.
- 17.3 If the Buyer is a Consumer who has bought Goods via the Company's website, it may submit its complaint to the online dispute resolution platform of the European Union for resolution at any time for consideration by visiting <http://ec.europa.eu/consumers/odr/>.

18. GENERAL

- 18.1 The language of the Contract is English and any version provided in any other language is for reference only.
- 18.2 The Company may assign or sub-contract the Contract, or any part of it, without the consent of the Buyer, but the Buyer may not assign or sub-contract the Contract without the Written consent of the Company.
- 18.3 If any part of the Contract is, or becomes, invalid, illegal or unenforceable in any respect, the validity and enforceability of the remaining provisions will not in any way be affected or impaired.
- 18.4 The Contract will be governed by, and construed in accordance with, the laws of England and the parties agree to submit to the non-exclusive jurisdiction of the English courts.
- 18.5 Any notice required or permitted to be given by either party to the other under the Contract will be in Writing addressed to that other party at its registered office or principal place of business, or such other address as may at the time have been notified to the party giving the notice.
- 18.6 No waiver by the Company of any breach of the Contract by the Buyer will be considered as a waiver of any subsequent breach and the Company will not be prejudiced by any forbearance or indulgence granted by it to the Buyer.