

STANDARD TERMS AND CONDITIONS OF SALE

1 Quotations:

- (a) Unless otherwise stated on the face of the Company's quotation, all prices are:
 - (i) open for acceptance for fourteen (14) days only from its date of issue;
 - (ii) based on current labour and material costs and any variation to these or to the Specification, shall be to the Customer's account;
 - (iii) calculated on the basis of all Goods ordered being delivered in one shipment; and
 - (iv) subject to the addition of the prevailing rate of value added tax (VAT).
- (b) A quotation for Goods given by the Company shall not constitute an offer.
- (c) The costs of any work preparation, including any alterations thereto original blanks, photographic negatives, positives or proofs and any applicable taxes may be an extra charge and such items will remain at all times the property of the Company, unless otherwise agreed by the Company in writing.

2 Orders:

- (a) These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- (b) The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Customer are complete and accurate.
- (c) The Order shall only be deemed to be accepted when the Company issues an Order Acknowledgement, at which point the Contract shall come into existence.
- (d) The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- (e) Any samples, drawings, images (including 3D images) or advertising produced by the Company and any descriptions or illustrations contained in the Company's advertising materials or website are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- (f) Any samples produced by the Company shall be approved by the Customer before being put into production by the Company (such approval not to be unreasonably withheld or delayed).
- (g) The Customer's approval of the sample constitutes irrevocable confirmation that:
- (h) Goods manufactured in conformity with the samples (or differing only within normal industrial limits) will comply with the Specification; and
- (i) the Goods will meet the industry standards and applicable statutory or regulatory requirements of quality, except for defects which are not capable of being revealed on reasonable inspection by the Customer.

3 Quantity Delivered:

If the Company delivers up to and including 10% more or less than the quantity of Goods ordered the Customer may not reject them, but should note any amendments on the goods receipt note at time of delivery. On receipt of such notification from the Customer that the wrong quantity of Goods was delivered, a pro rata adjustment shall be made to the Order invoice.

4 Delivery:

- (a) The Company reserves the right to supply by instalments. Each instalment is deemed to be sold under a separate contract and will be separately invoiced for payment upon these Conditions. Any delay or failure in delivery of or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- (b) Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Company shall not be liable for any delay in delivery of the Goods that is caused by an event or circumstance beyond the Company's reasonable control or the Customer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- (c) Subject to Condition 4(d):

- (d) The Company shall deliver the Goods to the Customer's premises as set out in the Order Acknowledgement or such other location as the Company may agree in writing ("**Delivery Location**");
- (e) Delivery is completed on arrival of the Goods at the Delivery Location; and
- (f) The Customer shall be responsible for providing labour and facilities at the Delivery Location for the offloading of Goods and shall indemnify the Company against all claims whatsoever arising from such unloading operations.
- (g) When it is agreed by the Company that the Customer will collect the Goods from the Company's premises:
- (h) The Customer shall collect the Goods from the Company's premises;
- (i) Delivery is completed:
- (j) If the Company agrees that the Company will load the Goods, on loading of the Goods onto the Customer's (or the carrier's) transport;
- (k) If the Company agrees that the Customer will load the Goods, on collection of the Goods from the Company's premises and the Customer shall be responsible for providing labour and facilities at the Company's premises for the loading of Goods and shall indemnify the Company against all claims whatsoever arising from such loading operations.
- (l) If the Company agrees to make transport arrangements for delivery of the Goods it will do so as the Customer's agent and at the Customer's risk.
- (m) If the Customer fails to accept delivery of the Goods within three Business Days of the Company notifying the Customer that the Goods are ready for collection, then, except where such failure or delay is caused by an event or circumstance beyond the Company's reasonable control or the Company's failure to comply with its obligations under the Contract:
 - delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Company notified the Customer that the Goods were ready; and
 - the Company shall store the Goods until delivery takes place and charge the Customer for all related costs and expenses (including insurance).
- (n) Failure by the Customer to pay for any instalment or delivery when payment is due shall entitle the Company to withhold further deliveries.

5 **Pallets:**

- (a) The Company at all times retains the right of possession of any pallets used for delivery of the Goods.
- (b) The Company shall notify the Customer whether the Customer is required to return the pallets. To facilitate this procedure:
 - (i) pallets may be exchanged on a one for one basis; and/or
 - (ii) transfer of hire of CHEP pallets can be arranged; or
 - (iii) a deposit will be charged to the Customer's account and the deposit will be refunded upon return of the pallet to a location agreed by the Company.

6 **Price and Payment Terms:**

- (a) The price of the Goods shall be the price set out in the Order Acknowledgement, or, if no price is quoted, the price set out in the Company's published price list in force as at the date of delivery.
- (b) The Company may, by giving notice to the Customer at any time up to ten Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
 - (i) any factor beyond the Company's reasonable control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification;
 - (iii) any request by the Customer which results in overtime being worked or additional costs being incurred by the Company; or
 - (iv) any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate or accurate information or instructions.
- (c) The price of the Goods:

- (i) excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Company at the prevailing rate, subject to the receipt of a valid VAT invoice; and
 - (ii) excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer (unless the Company has agreed that the Customer will collect the Goods from the Company's premises).
- (d) The Company may invoice the Customer:
- (e) for the Goods on or at any time after the completion of delivery; or
 - (f) for the Goods (or for the portion completed) in the event that a suspension by the Customer of any work continues for a period of thirty (30) days.
- (g) In the case of the first transaction between the Customer and the Company, satisfactory references are to be given or cash payment will be required.
- (h) The Customer shall pay the invoice in full and in cleared funds within 30 days from the end of the month the invoice was dated. Payment shall be made to the bank account nominated in writing by the Company. Time for payment is of the essence.
- (i) If the Customer fails to make any payment due to the Company under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- (j) The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Company may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Customer to the Customer.

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Quality:

- (a) The Company warrants that on delivery the Goods shall:
- (i) conform in all material respects with their description and the Specification; and
 - (ii) be free from material defects in design, material and workmanship; and
 - (iii) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
 - (iv) be fit for any purpose held out by the Company.
- (b) Subject to Condition 7(c)(i) – (iv), if:
- (i) the Customer gives notice in writing to the Company within seven (7) days of receipt of the Goods by the Customer that some or all of the Goods do not comply with the warranty set out in Condition 7(a);
 - (ii) the Company is given a reasonable opportunity of examining such Goods; and
 - (iii) the Customer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Customer's cost,
- the Company shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- (c) The Company shall not be liable for the Goods' failure to comply with the warranty set out in Condition 7(a) in any of the following events:
- (i) the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage or use of the Goods or (if there are none) good trade practice regarding the same;
 - (ii) the defect arises as a result of the Company following any drawing, design or Specification supplied by the Customer;
 - (iii) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - (iv) the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- (d) No claim in respect of goods damaged in transit will be valid if the carrier has been given a receipt signed without comment or objection by the Customer or his agent, or if the Company has been given a clean receipt by the Customer's nominated carrier.
- (e) Cepac Ltd reserves the right to out-source the production of any order or part-order, as and when required. Cepac will ensure that the integrity of all agreed customer quality and accreditation standards is maintained throughout this process. Wherever possible, the customer will be informed in advance of the requirement to out-source.

- (f) No warranty is given by the Company or responsibility accepted by it that Goods supplied comply with the requirements of any applicable laws, enactments, orders, regulations and other instruments in relation to the labelling, marking or packaging of goods, nor any designs or information provided to the Company by the Customer for inclusion on or in the Goods. Unless expressly set out in the Order Acknowledgement, compliance with such requirements shall be the sole responsibility of the Customer.
- (g) Except as provided in this Condition 7, the Company shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in Condition 7(a).
- (h) The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- (i) These Conditions shall apply to any repaired or replacement Goods supplied by the Company.

8 Product Recall/Withdrawal

- (a) If it is deemed necessary by the Customer (acting reasonably) to withdraw any of its goods from retail sale to consumers (Withdrawal) and/or recall any of its goods directly from its customers (Recall), whether or not the same is publicised to consumers, as a result of any reason bearing on the quality and/or the safety of the Goods or any related Customer goods, the Customer shall immediately notify the Company in writing. Unless required by law, the Customer may not undertake any Recall or Withdrawal without the written permission of the Company, such permission shall not be unreasonably withheld or delayed. The Company and Customer each agree to take such steps to assist with any Recall or Withdrawal as are reasonably necessary to protect the interests of the public.
- (b) The Customer shall indemnify the Company for any and all liabilities, costs and expenses incurred by the Company arising directly or indirectly as a result of a Recall or Withdrawal to the extent such Recall or Withdrawal is the result of the fault or negligence of the Customer and/or any third party in respect of the relevant Customer goods or arises as a result of the failure by the Customer to comply with these Conditions.

9 Liability - General Limitation:

- (a) Nothing in these Conditions shall limit or exclude the Company's liability for:
 - (i) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - (ii) fraud or fraudulent misrepresentation;
 - (iii) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
 - (iv) defective products under the Consumer Protection Act 1987.
- (b) Subject to Condition 9(a):
 - (i) the Company shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any special, indirect or consequential loss or damage arising under or in connection with the Contract; and
 - (ii) the Company's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.
- (c) Where the Company is requested to supply packaging or material with a machine readable symbol printed thereon in accordance with the relevant international barcode standard for barcoding, the Company's obligation is to print the agreed symbol according to the relevant international standard and provided such international standard is complied with the Company shall have no liability, including any liability for consequent loss arising therefrom to the Customer or to any third party if the symbol proves not to be machine readable. The Customer shall be responsible for verifying any barcode printed by the Company, unless the Company expressly agrees otherwise in the Order Acknowledgement.

10 Cancelling of Orders:

An Order cannot be cancelled by the Customer except upon terms that will compensate the Company for all work done and materials used or specially procured to the date of cancelling and expenses, including overheads and handling charges, incurred to the date of cancellation.

- 11 Title and Risk:**
- (a) The risk in the Goods shall pass to the Customer on completion of delivery.
 - (b) Title to the Goods shall not pass to the Customer until the earlier of:
 - (i) the Company receives payment in full (in cash or cleared funds) for the Goods; and
 - (ii) the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in Condition 11(d).
 - (c) Until title to the Goods has passed to the Customer, the Customer shall:
 - (i) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;
 - (ii) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (iii) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - (iv) notify the Company immediately if it becomes subject to any of the events listed in Condition 14(a)(i) to 14(a)(v); and
 - (v) give the Company such information relating to the Goods as the Company may require from time to time.
 - (d) Subject to Condition 11(e), the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Company receives payment for the Goods. However, if the Customer resells the Goods before that time:
 - (i) it does so as principal and not as the Company's agent; and
 - (ii) title to the Goods shall pass from the Company to the Customer immediately before the time at which resale by the Customer occurs.
 - (e) If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in Condition 14(a)(i) – 14(a)(v), then, without limiting any other right or remedy the Company may have:
 - (i) the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
 - (ii) the Company may at any time require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

- 12 Intellectual Property:**
- (a) The Customer acknowledges that all Intellectual Property Rights in the Goods, the Specification (excluding any labelling, designs or information provided to the Company by the Customer for inclusion on or in the Goods), all technical information, know how, drawings, designs and samples provided by the Company and all Company production processes belong and shall belong to the Company, and the Customer shall have no rights in or to such Intellectual Property Rights other than the right to use the Goods and/or resell them in accordance with the Contract.
 - (b) In consideration of the Company accepting an Order made to the Customer's Specification the Customer warrants that no Intellectual Property Rights are infringed and the Customer shall indemnify and keep indemnified the Company against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Company arising out of or in connection with any claim made against the Company for actual or alleged infringement of a third party's Intellectual Property Rights..

- 13 Experimental Orders:**
- Preliminary work and/or work produced in an experimental way at a Customer's request will be considered an Order by the Company and may be charged to the Customer.

- 14 Termination**
- (a) Without limiting its other rights or remedies, the Company may terminate this Contract in whole or in part, with immediate effect and without any liability on the part of the Company by giving written notice to the Customer if:
 - (i) the Customer fails to pay any amount due under the Contract on the due date for payment;

- (ii) the Customer commits a material breach of any other term of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of being notified in writing to do so;
 - (iii) there is a change of control of the Customer (within the meaning of section 1124 of the Corporation Tax Act 2010);
 - (iv) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
 - (v) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
 - (vi) the Customer's financial position deteriorates to such an extent that in the Company's opinion the Customer's capability to adequately fulfil its obligations under the Contract had been placed in jeopardy.
- (b) Without limiting its other rights or remedies, the Company may suspend provision of the Goods under the Contract or any other contract between the Customer and the Company if:
- (c) the Customer becomes subject to any of the events listed in Condition 14(a)(i) to Condition 14(a)(vi), or the Company reasonably believes that the Customer is about to become subject to any of them;
 - (d) if the Customer fails to pay any amount due under this Contract on the due date for payment; or
 - (e) the Company is delayed in performing, or fails to perform, any of its obligations under this Contract as result of an event or circumstance beyond the Company's reasonable control.
 - (f) On termination of the Contract for any reason the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest.
 - (g) Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.
 - (h) Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

15 Force Majeure:

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such a delay or failure result from an event or circumstance beyond that party's reasonable control.

16 Assignment and other dealings:

- (a) The Company may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Company.

17 Confidentiality:

- (a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by Condition 17(b). For the purposes of this Condition, group means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.
- (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Condition 17; and

- (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

18 General:

- (a) This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract.
- (c) No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- (d) No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- (e) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Condition shall not affect the validity and enforceability of the rest of the Contract.
- (f) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this Condition, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or email. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in condition 18(f); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission. The provisions of this Condition shall not apply to the service of any proceedings or other documents in any legal action.
- (g) No one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.
- (h) The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- (i) Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.

19 Definitions:

- (a) The following definitions apply in these Conditions:

“Business Day”	a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
“Company”	Cepac Limited (registered in England and Wales with company number 03373762).
“Conditions”	the terms and conditions set out in this document as amended from time to time in accordance with Condition 18(c).
“Contract”	the contract between the Company and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

“Customer”	the person, company or firm who purchases the Goods from the Company.
“Goods”	the goods (or any part of them) set out in the Order.
“Intellectual Property Rights”	patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.
“Order”	the Customer’s order for the Goods.
“Order Acknowledgement”	means the confirmation of an Order sent by the Company to the Customer in writing accepting an Order from the Customer in accordance with Condition 2(c).
“Specification”	any specification for the Goods, including any related plans and drawings, that is agreed by the Customer and the Company as set out in the Order Acknowledgment.

- (b) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (c) Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (d) A reference to **writing** or **written** includes emails.

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