

# Containers Direct Terms and Conditions of Business 7th Edition (20 November 2018)

## 1. Definitions and interpretation

In these Terms and conditions, the following words and phrases shall have the following meanings:

- i) 'Buyer' means the person, firm or company who purchases the Goods from the Company and where applicable, the Buyer's successors and assigns.
- ii) 'Company' means Containers Direct Ltd.  
[Contact Us](#)
- iii) 'Contract' means the entire agreement between the Parties as defined in clause 2.
- iv) 'Goods' means any goods agreed in the Contract to be supplied by the Company to the Buyer including parts and components of or materials incorporated in them.
- v) 'Order Confirmation' means the most recent Order Confirmation Form sent by the Company to the Buyer which has been accepted by the Buyer and which contains details of the Goods and the Price.
- vi) 'Parties' means the Company and the Buyer.
- vii) 'Terms' means these Terms and Conditions of Business.

In these Terms, reference to any statute or statutory provision shall be construed as a reference to such statute or statutory provision as amended, modified, re-enacted or replaced from time to time.

## 2. The Contract

- 2.1. The Terms together with the details contained in the Order Confirmation shall constitute the entire agreement and understanding of the Parties and supercedes any previous agreement between the Parties relating to the subject matter of the Contract.
- 2.2. The Customer is deemed to have accepted the Company's terms and conditions of sale by placing their order.
- 2.3. No variation of the Contract shall be valid unless it is notified in writing by the Company to the Buyer.
- 2.4. The Parties acknowledge and agree that in entering into the Contract, they are not relying on any pre-contractual representation or statement.
- 2.5. In the event of a conflict between the Terms and the Order Confirmation, the Order Confirmation shall prevail.
- 2.6. No terms and conditions contained or referred to in any purchase order or any other document produced by the Buyer which are purported to be included or applied by the Buyer will form part of the Contract.

## 3. Delivery

- 3.1. Any date or period specified by the Company for delivery of the Goods are intended to be an estimate only and time shall not be deemed to be of the essence.
- 3.2. If no date is specified for delivery of the Goods delivery shall be within a reasonable time.
- 3.3. Subject to the other provisions of these Terms the Company shall not be liable for any loss whether direct or consequential, economic or loss of profits or otherwise arising directly or indirectly out of any delay in the delivery of the Goods nor will any delay entitled the Buyer to terminate or rescind the Contract other by reason of force majeure pursuant to clause 11.
- 3.4. Where a customer requests delivery, this service will be provided as agent on behalf of the customer with a delivery company nominated by us unless at the time of placing the order, the customer nominates their own delivery company.

## 4. Price

- 4.1. The price for the Goods shall unless otherwise agreed be the price set out in the Company's invoice or proforma invoice supplied to the Buyer before delivery.
- 4.2. All prices quoted on our website exclude transport/delivery costs and VAT.

## 5. Payment

- 5.1. Unless otherwise agreed the Company will not process the order until payment of the price has been received in full in cleared funds.
- 5.2. Payment shall not be deemed to have taken place until the receipt by the Company of cleared funds.
- 5.3. If the Buyer does not make payment to the Company when such payment becomes due or becomes bankrupt or enters into liquidation or any composition with its creditors or has a Receiver or Manager appointed over all or part of its' assets or becomes insolvent or if the Company has reasonable cause to believe that any of these events is likely to occur the Company shall have the right without prejudice to any other remedies:
  - 5.3.1. To enter the premises where the Goods are stored or kept and to repossess and dispose of any such Goods so as to discharge any sums owed to the Company by the Buyer.
  - 5.3.2. To retain any undelivered Goods.
  - 5.3.3. To insist that the Buyer does not resell or part with possession of any of the Goods

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until the Buyer has paid in full all sums owed to the Company by the Buyer.

- 5.4. The Company may at its discretion suspend or terminate the supply of any Goods if the Buyer fails to make payment when and as due or otherwise defaults in any of its obligations under these Terms or any other agreement with the Company.

### 6. Final inspection and sign off prior to release of the container

The following terms and conditions apply where either the Buyer attends site in person, or if this sign off is carried out remotely by detailed pictures of the product.:

- 6.1. The Buyer must ensure that the person signing off for their container is authorised to do so.
- 6.2. The Buyer must check the container against the agreed specification and CAD diagram provided with their order when signing off the container.
- 6.3. If the Buyer spots an issue which they would like resolving during the inspection, the Company will write this down and provide the Buyer with a full report of issues to rectify. Once the issues have been resolved, the Company will either send photographs or the Buyer can come back to site to inspect again, where they will give their final sign off before delivery.
- 6.4. Should any of the interior or exterior fittings malfunction once in situ e.g. lights etc., the Company will send the replacement part down to the Buyer in accordance with the manufacturers' warranty, where the Buyer will need to engage a tradesperson to fit.
- 6.5. If the Buyer's project includes any plumbing e.g. a toilet or canteen area, please note it is common for plumbing parts to become loose in transit, and the Company advises that when the Buyer engages a plumber to connect to their supply that all parts are re-tightened.
- 6.6. Electrical installations will be checked by the Company before the container leaves the depot, however the Company does not supply electrical certificates as standard (unless requested) as these certificates are invalidated once the container leaves the depot. The Buyer is strongly advised to engage a local electrician to re-test and certify the unit once in situ.
- 6.7. Once the container is signed off by the Buyer, the Company will not then be held liable for rectifying any snags or issues that may become evident once the container has been received on site (except for faulty or broken items as per clause 6.4).

### 7. 12 month water tight Warranty

The Company warrants that the container roof will be free from leaks for a period of 12 months from the actual delivery date ('the Warranty Period').

If the container roof leaks during the Warranty Period, the Company will arrange for the repair of the roof without charge for parts and labour within a reasonable time of receiving notification of the defect, subject to suitable weather conditions prevailing at the time of the planned repairs.

This warranty only applies where the container is located on the UK mainland.

In order to claim under this warranty, the Customer must notify the Company of the defect before the expiration of the Warranty Period and make suitable arrangements to enable the Company to perform their obligations under this Warranty.

#### Exclusions to the Warranty

- a) The following are excluded from these Warranty conditions:
- b) Any defect, failure or damage caused by improper use of the container such as walking on the roof of the container
- c) If the Customer or its employees or agents moves/re locates the container
- d) Damage resulting from attempts by personnel other than the Company's representatives or their agents to repair the roof
- e) If the container has been modified or integrated with other products, containers or buildings by the Customer or its employees or agents
- f) Containers fitted with roller shutters

This warranty is given by the Company with respect to the container in lieu of any other warranties, express or implied. The Company disclaims any implied warranties of merchantability or fitness for a particular purpose. The Company's responsibility to repair the roof is the sole and exclusive remedy provided to the Customer for breach of this warranty. The Company will not be liable for any indirect, special, incidental, or consequential damages irrespective of whether the Company has advance notice of the possibility of such damages.

### 8. Risk in and ownership of the Goods

- 8.1. Risk in the Goods shall pass to the Buyer on delivery or on collection whichever comes first.
- 8.2. Ownership in the Goods shall not pass to the Buyer until the Company has received payment in full in cleared funds all sums due to the Company in respect of the Goods and all other sums which are or maybe come due to the Company from the Buyer on any account.
- 8.3. Until ownership of the Goods has passed to the Buyer:

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8.3.1. The Buyer shall hold the Goods on trust for the Company and the Company shall have a lien on such Goods.

8.3.2. The Buyer shall maintain the Goods in satisfactory condition insured with the Company's interest noted on the policy and hold any proceeds of such insurance on Trust for the Company and not mix them with any other money.

8.3.3. If the Buyer alters the Goods in any way or incorporates them into any other product the Company will own the resulting product (hereinafter called 'Altered Goods') and the Company's rights under these Terms shall extend to the Altered Goods.

### 9. Privacy

9.1. For specific information regarding our privacy policy, please refer to our [Privacy Policy](#).

### 10. Limitation of liability

10.1. The Company's liability in contract, tort or otherwise arising out of the subject matter of the Contract shall not exceed £20,000 and the Company shall under no circumstances be liable to the Buyer for any consequential indirect or economic loss or damages.

### 11. Force majeure

11.1. Neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from an event of force majeure, that is, circumstances outside its reasonable control including but not limited to war, fire, industrial disputes or civil commotion.

11.2. If either party is prevented or delayed in the performance of its obligations under the Contract, that party must promptly:

11.2.1. Serve notice on the other party in writing specifying the nature and extent of the circumstances giving rise to force majeure; and

11.2.2. Shall, subject to service of such notice and taking all reasonable steps to avoid and remedy such prevention or delay; and

11.2.3. For such time after they cease as is necessary for that party, using all reasonable endeavours, to recommence its affected operations in order for it to perform its obligations under the Contract.

11.2.4. If such circumstances continue for a period of more than three months, either party may terminate the Contract by written notice to the other party.

### 12. Arbitration and Jurisdiction

12.1. The construction, validity and performance of the Contract (including any dispute over non payment or refusal to pay) shall be governed by the law of England and all disputes which may arise under, out of, or in connection with or in relation to the Contract shall be submitted to the arbitration of the London Arbitration Centre Limited under and in accordance with its rules at the date hereof.

London Arbitration Centre Limited  
London Chancery Lane  
1<sup>st</sup> Floor Holborn Gate  
330 High Holborn  
London  
WC1V 7QT

[www.londonarbitrationcentre.com](http://www.londonarbitrationcentre.com)

12.2. The Parties agree that service of any notices in the course of such arbitration at the addresses for service mentioned in clause 12.5 herein shall be valid and sufficient.

### 13. General

13.1. If any part of these Terms is found to be void or unenforceable by any court of competent jurisdiction such part shall be severed from these Terms which will otherwise remain in full force and effect.

13.2. The headings of these Terms are for convenience only and shall not affect their interpretation.

13.3. The Contract is between the Company and the Buyer as principals and shall not be assignable by the Buyer without the express written consent of the Company.

13.4. An obligation by two or more parties under the Contract shall bind them jointly and severally.

13.5. Unless otherwise indicated in writing, the Buyer's address for service of any notices shall be the Invoicing address on the Order Confirmation Form and the Company's address for service shall be Manor Yards, Newstet Road, Knowsley Industrial Park North, L33 7TJ.

### 14. Buy Back options

14.1. In this clause:

'the Delivery Date' means the date of delivery of the container by the Company to the Buyer.

'Container' means the container which the Company specified in writing on sale that a buy back option would apply

The 'Buy Back Price' means the price for the Buy Back which will be 50% of the price originally paid by the Buyer to the Company for the Container less the

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price for the original delivery of the container to the Buyer's site.

14.2. If a buy back option ('the Buy Back') has been offered to the Buyer, it is subject to the following terms and conditions:

- (a) The Buy Back only applies to the Container.
- (b) The Buyer must communicate in writing their intention to exercise the Buy Back option no more than 2 years after the Delivery Date
- (c) The Buyer must provide photos of the Container which are satisfactory to the Company i.e. clear photos showing the condition of the interior and exterior of the Container from a reasonable distance and showing all 4 sides of the Container. The Company reserves the right to request more detailed photos to identify any defects.
- (d) Once satisfied with the condition of the Container, the Company will accept the Buy Back option in writing.
- (e) The Company will collect the Container within 4 weeks of accepting the Buy Back option, and the Container must be available and accessible by a Hiab to collect during that time. For further detail about what is considered to be accessible, please refer to our Order Confirmation Form.
- (f) The Company will pay the Buy Back Price by BACS within 7 days of the collection of the Container by the Company.
- (g) The Buy Back will be void if any modifications have been done to the Container after the Delivery Date or if the condition of the Container has deteriorated since the Delivery Date which is over and above fair wear and tear.