

# **TERMS & CONDITIONS OF SALE**



1.(a) These Terms & Conditions shall apply in their entirety in all contracts for the supply of goods & materials by Newspace Containers Ltd (“The Company”).

(b) No waiver or variation of any part of these Terms & Conditions is valid save it is in writing & signed by a Director of the Company.

(c) In the event of a conflict between these Terms & Conditions & any terms & conditions put forward by the customer, these Terms & Conditions shall prevail. The Customer may give written notice within three days of receipt of this document that they refuse to be bound by these Terms & Conditions, at which point the Company may rescind the contract.

(d) The Contract, including these Terms & Conditions, shall be governed by and construed in accordance with English Law and the English courts shall have jurisdiction.

(e) No third party shall have rights to enforce the Contract.

(f) If any part of the Contract is deemed illegal or unenforceable it shall be deemed deleted.

(g) The Company shall not be liable for representations unless they are made in writing (other than in general marketing materials) or are fraudulent.

(h) These Terms and Conditions, together with any documents referred to in them, are the entire agreement between the parties.

2. (a) The Company shall only supply goods & materials in accordance with the specification and drawings referred to in its quotations or order acknowledgements and shall not be bound by any other specifications and drawings provided by the Customer. The Company may reasonably alter any specification and supply the goods as so altered, and may substitute and supply similar goods of equivalent type in the performance of the contract, provided that any alteration or substitution does not significantly reduce or change the substantive quality and/or nature of the goods.

(b) The Company is not bound to accept alterations or additions proposed by the Customer after acceptance of the order by the Company. Any such variation that is agreed shall be evidenced in writing and signed by the Company and may be subject to additional charge.

(c) Goods are not tested or sold as fit for any particular purpose, and any term, warranty or condition – express, implied or statutory to the contrary – is excluded to the fullest extent permitted by law. In no circumstances whatsoever shall the Company’s liability (in contract, tort – including negligence - or otherwise) to the Customer arising under, out of, or in connection with this contract or the goods supplied hereunder, exceed 120% of the invoice price of the goods concerned. Furthermore, the Company shall not be liable for any indirect loss, loss of profit, loss of sales or business, loss of contracts, loss of anticipated savings, or damage to goodwill. This clause shall not, however, limit any liability beyond what is permissible by law (for example, liability for death and personal injury caused by negligence is not limited).

(d) The Customer does not rely on the Company’s skill or judgement with regard to the Customer use or deployment of the goods or materials supplied.

(e) All terms, express or implied, relating to the quality of the goods are warranties only – the breach of which gives no right to reject the goods or materials or terminate the contract in any circumstances whatsoever.

3. (a) Prices advised or agreed by the Company prior to manufacturing of the goods are subject to change without prior notice in respect of any increase in cost of materials, labour, or service, or any fluctuation in exchange rates.

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(b) Unless otherwise stated, prices do not include any Value Added Tax which may be chargeable.

(c) Initial payment for new customers on Pro Forma only or agreed deposit paid prior to despatch, unless otherwise agreed by Company Director. Terms are strictly net monthly account unless otherwise confirmed in writing.

(d) All prices quoted are valid for 30 days.

(e) Delivery is Ex Works (Incoterms) Lydney Harbour Estate, Harbour Rd, Lydney GL15 4EJ, unless otherwise agreed in writing.

(f) Any dates quoted for delivery are approximate only.

(g) If the Customer fails to collect the goods within five business days of the Company notifying it that the goods are ready, then (a) delivery shall be deemed to have been completed at 9am on the fifth business day after notification of them being ready, (b) the Company invoice for the goods with payment being due in line with agreed payment terms, and (c) the Company shall store the goods until delivery takes place, at the Customer's risk, and may charge the Customer for all related costs and expenses (including insurance).

(h) If the Company agrees to deliver to any location, the Customer shall provide the labour and equipment required to offload the goods at the delivery location and provide access, and should the Customer fail to do so, the Company may charge for return visits so necessitated. Delivery is completed on unloading of the goods at the agreed delivery location or as near as possible to that location as is safe and the public highway permits.

4. The Company shall not be liable for any delay or for any consequence of any delay in the production or delivery of any goods or material if such delay shall be due to fire, strike lockout dispute with workmen, flood, accident, delay in transport, shortage of fuel, default or any sub-contract inability to obtain material, embargo, act or demand or requirement of any government or government department or local authority or as a consequence of war or of hostilities (whether war be declared or not), epidemic or pandemic, or to any other cause beyond the reasonable control of the Company. If any such delay occurs, then the period for the Company performing its obligations shall be extended by such period (not limited to the length of the delay) as the Company may reasonably require to complete the performance of its obligations.

5. The title to goods & materials supplied by the Company shall remain vested in the Company until the full purchase price thereof shall have been paid to the Company and shall not therefore pass on delivery unless the full purchase price has been paid for on or before delivery. Until title passes, the Customer shall maintain the goods in satisfactory condition, keep them insured, and allow access to the Company to repossess the goods should the Contract be terminated.

6. All invoices for any goods or materials supplied by the Company shall be paid in full by the Customer within the time agreed and interest shall be chargeable at the rate of 20% per annum on all monies invoiced but outstanding after this agreed period on each relevant invoice and such interest shall be a contract debt recoverable in law.

7. The Customer shall ensure that its operatives lift and handle the goods with reasonable skill and care. The Company shall not under any circumstances whatsoever be liable for any loss, cost, injury, damage or delay arising out of the Customer's handling of the goods, or out of any use of equipment provided by the Customer for use in connection with the goods.

8. Second-hand goods are offered strictly subject to availability; any intending purchaser must satisfy themselves by inspection or otherwise as to the correctness of any oral or written description given to any second-hand units. Unless confirmed in writing, no warranty is given or implied.

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9. The Company shall not be liable for, and the Customer shall indemnify and hold the Company harmless against, any claim by or loss or damage to any person or property directly or indirectly occasioned by or arising from the use or operation (other than by the Company) or possession of any goods or materials supplied by the Company and from negligence or default or misuse by or on the part of the Customer or any person or persons other than the Company. This indemnity shall extend to any costs and expenses incurred by the Company and shall continue in force notwithstanding the passing of title to goods or materials supplied by the Company.

10. Notice of any claim arising out of, or in connection with the supply of any goods or materials must be given to the Company within two working days from the date when the goods or materials were collected or delivered and confirmed in writing within four working days. Failing this, all claims shall be under no liability whatsoever if the packaging (where applicable) is not produced with the goods for inspection by the Company, nor where the Customer has not kept the goods separate and identifiable for that inspection.

11a) Notwithstanding that the property in goods shall not pass to the Customer save as provided above, the goods shall be at the risk of the Customer from the time of invoice, collection by or delivery to him of the goods, whichever is the sooner.

(b) Delivery shall be by a suitable safe access, and it shall be at the absolute discretion of the driver delivering the goods to decide whether the access route is safe and suitable. The company shall not be liable for any failure to deliver where the said access is not available.

(c) Foundation requirements are the responsibility of the Customer.

12. The Company shall perform its services using reasonable skill and care and in accordance with the agreed specification in all material respects. It shall use reasonable endeavours to meet any performance dates specified in the specification, but time shall not be of the essence.

13 Each party shall keep confidential and not use (save for the purposes of the Contract) any confidential information disclosed to it by the other party.

14 All drawings, sketches, plans and specifications produced by the Company, and all intellectual property rights in them, shall remain the exclusive property of the Company. Where the Customer supplies any drawings, images, trademarks or other materials for use by the Company the Customer licenses the Company to copy and modify them for the purpose of the Contract, and indemnifies the Company against all costs, losses and expenses arising from any claim that they infringe any third party's intellectual property rights.

15. The Company may transfer or subcontract its obligations under the Contract. The Customer may not transfer its obligations without the Company's consent.

16. Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if: (a) the Customer breaches any term of the Contract and (if such breach is remediable) fails to remedy that breach within 30 days of being notified in writing to do so; (b) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors; (c) the Customer suspends all or a substantial part of its business; or (d) the Customer's financial position deteriorates significantly. On termination of the Contract the Customer shall immediately pay all the Company's outstanding invoices and for any work in progress. Any term of the Contract intended to survive termination shall survive it.

17. The Customer shall (a) give adequate and accurate information and instructions to the Company to enable the Company to perform its obligations under the Contract (b) obtain all necessary licences and consents, (c) comply with all applicable laws and codes, and (d) not cause any delay. The Company shall not be liable for any

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loss or costs arising from the Customer's default, and the Customer shall reimburse the Company on written demand for any such loss or costs.

18. Any warranty given by the Company is limited in the following ways: (a) the Customer must inspect the goods within 48 hours of delivery, and first notify the Company of any defect apparent on an inspection, and in the case of latent defects must notify the Company of any warranty claim within five business days of discovery; (b) the Company must be given a reasonable opportunity of examining the goods, and must return the goods to the Company if reasonably requested to do so; (c) the Company shall not be liable if (i) the Customer makes any further use of the goods after giving notice of a defect; (ii) the defect arises because the Customer failed to follow the Company's instructions as to the lifting, handling, storage, commissioning, installation, use or maintenance of the goods or (if there are none) good trade practice regarding the same; (iii) the defect arises as a result of the Company following any drawing, design or specification supplied by the Customer; (iv) the Customer alters or repairs the goods without the written consent of the Company; (v) the defect arises due to fair wear and tear, wilful damage, negligence or abnormal storage or working conditions; or (vi) the goods differ from their specification as a result of changes made to them in order to comply with any law. Any warranty given is in lieu of the terms implied by the Sale of Goods Act 1979 and the Sale of Goods and Services Act 1982, which implied terms are excluded from the Contract to the fullest extent permitted by law. These Terms & Conditions apply to any repaired or replacement goods supplied by the Company.

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## **Qualifications & Exclusions.**

Unless stated otherwise in our quotation please be aware of the following:-

### **1) Delivery etc.**

1.1 A copy of our standard format Method Statement & Risk Assessment, if requested at order placement, can be provided. Should any alternative format be required, this will result in extra costs. This must be confirmed prior to placement of order.

1.2 For delivery & craneage (if applicable and if included in our quotation), a hard access road & standing area will be required, capable of taking the appropriate loading & dimensions, clear of any overhead obstruction & wires.

1.3 Should ground conditions deteriorate, or alter after any site survey, any additional costs incurred by Newspace will be chargeable.

1.4 Should the crane or lorry loader be unable to operate due to high winds, or other elements beyond our control, all costs in rescheduling will be chargeable. Cranes are only supplied under CPA terms & conditions.

1.5 Any time spent on site induction courses not specified at quotation stage, will result in extra costs for standing time, including vehicles or machinery standing idle.

1.6 Abnormal loads: Any restriction(s) or escort requirement(s) imposed by police forces will incur additional costs.

1.7 We must be notified at quotation stage, if we are supplying carriage and any airfield or heliport is within 3.75 miles (6km) of the proposed lift.

1.8 Unless detailed on the specific quotation, it is assumed that there is suitable access to the site, without weight restriction, for an articulated lorry loader and trailer up to 18m in length. It is also assumed that there are no special access, off-loading or installation requirements in relation to the delivery.

### **2) Warranty, Risk, Specification etc.**

2.1 Once placed on the ground (or double stacked) all risk & insurance responsibilities rest with the client.

2.2 Any warranty or quotation applies to mainland Britain. For each product sold, Newspace offers to the original owner ("BUYER") a limited warranty against failure to conform to the product specifications, or any defects in material and workmanship, for a period of twelve (12) months, active from the date the product is dispatched from the Newspace factory.

2.3 All products are supplied only under our "Terms & Conditions of Sale," unless expressly confirmed in writing by a Director of the company.

2.4 Specification: Any quotation will be based on the information provided at the time. Any subsequent change, increase or alteration may result in extra costs.

2.5 "Speedfit" type plastic water pipe is installed as standard.

2.6 Electrical fittings, including all types of electric heaters, fitted within a Newspace portable unit, are covered with a 12 month parts only warranty. The labour cost of replacement to be carried out at the Buyers own cost. We can offer no warranty greater than that provided by our suppliers.

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2.8 All warranty claims will be subject to a standard “Question & Answer” procedure between the caller and a sales executive from Newspace. This process is undertaken to try and determine the exact problem and to eliminate the chance of the call out becoming chargeable to the client. If, on arrival on site, the issue is covered by warranty, no costs will be incurred by the client. However, should the Engineer arrive on site to find that the problem is due to user error, misuse or oversight, then the call out will most definitely be chargeable. It is imperative, therefore, to try and determine the actual problem, prior to the dispatch of an Engineer.

## **3) Exclusions.**

3.1 Access steps, ramps, skirts, lifts, foundations. Foundation drawings can be supplied on request.

3.2 Provision of, and connection to, mains services.

3.3 Local Authority and Fire Officers requirements and fees. This includes planning permission, building regulation approval, SBEM calculations, alarms, emergency lighting & signage, etc.

3.4 Out of hours/weekend working.

3.5 Repair to access roads, manholes, kerbs, hard standing or grassed areas.

3.6 Temporary fencing around the delivery site. Removal of obstructions, fences etc. to enable access.

3.7 Rectification of minor leaks in the plumbing installation caused by delivery & siting.

3.8 Edge protection whilst working on roofs.

3.9 Any additional documentation required other than that mentioned in 1.1 above.

## **4) Installation on site.**

4.1 Unless expressly mentioned in the quotation, the price will exclude the cost of transport, access equipment (other than basic ladders), crane, banksman, associated equipment and any other necessary specialist items. All of which are to be provided by the client, as required. The price is based on assumed standard installation conditions and working methods and may require revision on the basis of the actual site conditions and requirements; all of which should be confirmed to us prior to order placement. This will avoid the possibility of subsequent installation delays, cancellation or additional charges.

4.2 Newspace will not be held responsible for any costs caused by delays on site due to the site not being fully prepared ready to accept the installation or placement of units. Any additional costs due to standing time for transport or contractors on site will be chargeable.

4.3 Unless otherwise carried out by Newspace, its representatives or agents, prior to order placement, site surveys would be recommended, in order to eliminate any on site issues prior to delivery and installation. Please note there may be a charge for carrying out a site survey. It is the client’s responsibility to ensure that a site survey has taken place prior to the delivery & installation date, particularly if Newspace have been asked to supply a delivery and installation quotation.

## **5) Collection of Products from Newspace.**

5.1 It is the responsibility of the external contractor/driver to know exactly what is to be collected from the Newspace factory and for whom. This will include the name of the company they are collecting on behalf of, the delivery address, the size and type of unit(s) to be collected and unit numbers, if applicable. A collection note will be issued, which clearly states what will be loaded, which the driver then signs to state they are fully aware of what is to be collected. If the driver has any concerns regarding the collection, then this should be

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raised at this point. Newspace will not be liable for any costs where the wrong size/type of unit has been collected.

5.2 Newspace utilise a collection booking systems by e mail. It is the Customers responsibility to utilise the systems and book a slot for the collection of a Unit. Newspace will not be held responsible for any delays however so arising for the collection of its products.

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