

JG Pears Holdings (Jersey) Limited

Standard Terms & Conditions of Purchase

Definitions

- (i) "Affiliate" means any subsidiary of the ultimate holding company incorporated in Jersey. For the purposes of this definition "holding company" and "subsidiary" have the meanings given to those expressions in section 1159 of the Companies Act 2006.
- (ii) "Business Day" means a day other than a Saturday, Sunday or public holiday in England when the banks of London are open for business.
- (iii) "Conditions" means these Conditions of Contract.
- (iv) "Contract" means the agreement for supply of Goods between the Affiliate and the Supplier in accordance with and incorporating these Conditions.
- (v) "Contract Price" means the price payable by the Affiliate for the Goods as set out in the Invoice.
- (vi) "Delivery Date" means the date specified for delivery of the Goods in the Order.
- (vii) "Goods" means the goods or, where appropriate, services requested in the Order.
- (viii) "Company" means JG Pears Holdings (Jersey) Ltd whose registered office is at 4th Floor, ST. Pauls Gate, 22-24 New Street, St. Helier, Jersey, JE1 4TR.
- (ix) "Invoice" means the invoice rendered by the Supplier to the Affiliate in respect of Goods delivered against an Order.
- (x) "Order" means the form or document used by the Affiliate to order Goods.
- (xi) "Specification" means the description (if any) of the Affiliate particular requirements in respect of the Goods stated in the Order.
- (xii) "Supplier" means the company, firm or individual to whom the Order is addressed.

1. Entire Contract and Commencement

- 1.1 These Conditions and the Order shall form the entire Contract save as may be specifically varied in writing and signed by an authorised signatory of the Affiliate.
- 1.2 The Contract shall arise upon acceptance of the Order by the Supplier who shall be obliged to confirm acceptance of the Order within 10 days of the date of the Order or the Affiliate shall be entitled to cancel the order.
- 1.3 Subject to Condition 22.5 below, these Conditions shall prevail over and take precedence over any other terms and conditions of the Supplier and any other representations made by any other party prior to the Order. These Conditions apply to the purchase of Goods under an Order and every offer, quotation, acceptance and contract for the sale or supply of such Goods and form the basis of the Contract.
- 1.4 The Affiliate waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any document of the Supplier that is inconsistent with these Conditions.
- 1.5 The Affiliate shall not be liable for any work done or Goods supplied without an Order.

2. Specification, Quality of Goods and Packing

- 2.1 The Goods shall comply in all respects with the Specification or any agreed modifications thereof and when the Specification is silent on the type and quality the Goods shall be of good and merchantable quality and fit for their purpose.
- 2.2 If any samples, patterns or materials ("Samples") or other Goods are supplied by the Affiliate for use in connection with the Order, the Supplier shall be responsible for their safe custody and return and for any loss or damage to them however caused whilst in the Supplier's possession. Samples shall be returned to the Affiliate on or before the date when the Goods are delivered to the Affiliate.
- 2.3 The Goods shall be properly packed and despatched to such place as may be specified in the Order. If the Affiliate so requests the packing cases and packing materials will be clearly marked with such particulars as the Affiliate may reasonably require.
- 2.4 The Supplier shall be responsible for any damage, loss or expense incurred by the Affiliate which arises out of improper packing or incorrect delivery of the Goods.
- 2.5 No charge shall be made by the Supplier for any packaging or carriage unless specifically agreed in writing with the Affiliate.
- 2.6 In providing the Goods the Supplier shall obtain and at all times maintain all necessary licences, permits, consents and comply with all applicable laws and regulations.
- 2.7 The Affiliate may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 2.8 If following such inspection or testing the Affiliate considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at Condition 2.1 and 2.2, the Affiliate shall inform the Supplier and the Supplier shall immediately take such remedial action as it necessary to ensure compliance.
- 2.9 The Affiliate may conduct further inspections and tests after the Supplier has carried out its remedial action.

3. Delivery

3.1 The Supplier shall deliver the Goods carriage paid in accordance with the Delivery Date at the delivery address shown on the Order clearly marked with the name and address of the Affiliate and with the Order number.

3.2 Delivery shall be deemed to have been made when the Goods are received in good and proper condition by the Affiliate or its agent at the place specified in the Order or such other place as may be agreed by the Affiliate.

3.3 Time shall be of the essence in respect of the Order. In the event that the Affiliate chooses not to terminate the Contract for late delivery, the Supplier shall pay to the Affiliate liquidated damages limited to the Contract Price for each week or part of a week that the Goods, or a part thereof are delayed in delivery to the Affiliate provided that the Affiliate shall have suffered loss thereby and whether or not eventual delivery is made by the Supplier or a third party. Such payment shall be in full satisfaction of the Supplier's liability for delay and shall be limited to the sum of the Contract Price. The Affiliate's general right to termination for delay at any time after the Delivery Date shall remain unaffected by the Affiliate's rights under this provision and the giving of time or other concession granted to the Supplier shall not affect the Affiliate's right of termination nor shall any waiver in respect of a delay operate as a waiver of any subsequent delay.

4. Rejection

4.1 The Affiliate may by notice in writing either at the time of delivery (if the Goods are inspected on delivery) or within 21 days of the Goods first being put to use following any period of storage reject the Goods or any part thereof which in the reasonable opinion of the Affiliate or its agents are of inferior or defective quality or are not in accordance with the Specification. The Affiliate shall be entitled to reject the entirety of the Goods delivered under an Order whether or not the same includes Goods which are not of inferior quality or defective.

4.2 Following rejection of any Goods by the Affiliate:

(a) the Affiliate may either return any rejected Goods at the Supplier's expense or risk or require the Supplier to collect those Goods; and

(b) the rejected Goods shall remain at the sole risk of the Supplier and subject to a lien for any amount owing to the Affiliate for any carriage, care or other charges in respect thereof and to a right of sale by the Affiliate in default of payment of such charges within a reasonable time. The Affiliate shall, subject to the aforesaid lien, be entitled to remove and dispose of the Goods as it may think fit and charge the Supplier with the costs and expenses in respect of such removal and/or disposal if the Supplier does not collect the Goods within such period (not more than 14 days) as may be specified in the rejection notice; and

(c) the Supplier shall replace the rejected Goods as soon as possible (not more than 14 days from the date of notice of rejection or any extension that the Affiliate may agree) failing which, the Affiliate shall be entitled to obtain replacement Goods from third parties and the Supplier shall make good to the Affiliate any additional costs and expenses in excess of the Contract Price incurred by the Affiliate in obtaining replacement Goods; and

(d) the Supplier shall be responsible for any loss, damage and expense the Affiliate may thereby suffer or incur arising out of any delays or adverse effects on the Affiliate's plans or work in respect of which the rejected Goods were required.

4.3 These Conditions shall apply to any replacement Goods supplied by the Supplier.

4.4 The Affiliate's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

5. Variation

5.1 The Supplier shall not change the Specification or supply of Goods otherwise than in accordance with the Specification unless so agreed by the Affiliate in writing.

5.2 The Affiliate shall be entitled to vary the Order including the Specification at any time before the Delivery Date subject to written agreement with the Supplier.

6. Property and Risk

6.1 Without prejudice to the rights and obligations of the parties under the Contract, unless agreed otherwise in writing between the parties the property and risk in the Goods shall pass to the Affiliate on delivery to the delivery address shown on the Order.

7. Payment

7.1 Unless agreed otherwise in writing, the Affiliate shall make payment in respect of an Order within 2 Business Days of the end of the month following the month in which the Invoice is dated. Each invoice shall refer to the Order number to which it relates, failing which the Affiliate shall be entitled to return the Invoice unpaid.

7.2 The Affiliate shall not be obliged to make payment for Goods if those Goods have not been delivered or if the Affiliate has rejected those Goods or if the Invoice is returned unpaid due to the omission of an Order number.

7.3 Any sum due from the Supplier to the Affiliate under the Contract or any other contract between the parties may, without prejudice to any other method of recovery, be set off against any payment which is due to the Supplier.

7.4 The Supplier shall pay to the Affiliate any tax, duty or government charge which becomes payable as a result of any assessment by HM Revenue & Customs in relation to the Goods supplied.

8. Indemnity

8.1 The Supplier shall indemnify and keep indemnified the Affiliate and any Affiliate for whom the Affiliate has purchased the Goods as such Affiliate's agent against all and any claims, liabilities, losses, costs and expenses (including legal and other professional fees and expenses), proceedings, third party claims and proceedings, damages and penalties (including penalties and liabilities under any other contract) and demands awarded against, or incurred to or paid by, or to be incurred or paid by the Affiliate as a result of or in connection with the Supplier's performance or any breach of the provisions of the Contract.

9. Access to the Supplier's Premises

9.1 Except where otherwise agreed the Supplier shall give access to its premises to the Affiliate's authorised representative at all reasonable times.

10. Access to the Affiliate's Property

10.1 The Supplier may not enter the Affiliate's property without the appropriate authorisation and any necessary safety induction. The Supplier shall ensure that where its employees or agents are required to work on or enter the Affiliate's property or site, all such employees or agents so doing shall comply with the Affiliate's Health, Safety and Environment Policy from time to time in force and the requirements of law and the Affiliate may require the Supplier to take such precautions and follow such procedures as the Affiliate may instruct.

10.2 The Supplier warrants that all personnel involved in the performance of the Contract will be suitably skilled and experienced to perform the tasks assigned to them.

11. Sub Contracting and Assignment

11.1 The Supplier is accountable at all times for the performance of all persons, products and services used in the execution of the Contract.

11.2 The Order shall not be assigned or sub-contracted in whole or in part by the Supplier without the Affiliate's prior written consent.

12. Confidentiality

12.1 Any information supplied or received by the Supplier relating to the Affiliate pursuant to the Contract which is of a confidential nature or marked so as to indicate that it is confidential shall not be disclosed to any third party or to the Supplier's servants and agents save as may be required by law or to the extent necessary for the Supplier to carry out its obligations under the Contract.

13. Advertising

13.1 The Supplier shall not without the written consent of the Affiliate advertise or announce that it supplied or has supplied Goods to the Affiliate.

14. Marked Goods and Insurance

14.1 Goods shall not be disposed of to a third party without the prior written consent of the Affiliate unless such markings are first completely erased or removed.

14.2 During the term of the Contract and for a period of 1 year thereafter (unless otherwise agreed), the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Affiliate's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of such insurance.

15. Cancellation or Termination of the Contract

15.1 The Affiliate may without liability other than as may be provided herein cancel an Order at any time prior to the Delivery Date to the payment of the Supplier's reasonable direct costs and expenses as agreed in writing by the Affiliate.

15.2 The Affiliate shall be entitled to terminate the Contract forthwith if:

- (a) without prejudice to the other provisions of these Conditions the Supplier commits any breach of the Conditions of the Contract and fails to remedy the same within 14 days of being given notice to do so; or
- (b) the Supplier dies, becomes bankrupt insolvent or has a receiving order made against it or being a corporation enters into liquidation whether compulsory or voluntary (except for the purpose of amalgamation or reconstruction), enters administration or a threat is made to appoint an administrator in respect of its business, or has a receiver appointed over a substantial part of its assets or if execution is levied against the Supplier's Goods; or
- (c) the Affiliate reasonably believes that the Supplier will be unable to or is unlikely to render proper performance under the Contract.

16. Guarantee

16.1 Without prejudice to the Affiliate's rights generally the Supplier shall repair/replace defective Goods in the event of a defect occurring within a period of 12 months from the date of delivery of those Goods provided that the defect was not caused by misuse of the Goods by the Affiliate.

17. Consequential Loss

17.1 Neither party shall be liable to the other for any indirect or consequential losses however arising.

18. Notices

18.1 Notices shall be deemed to have been properly served if sent by recorded delivery, post or facsimile to the address for the parties stated respectively on the Order and the Supplier's offer or acceptance made as applicable or such other address as either party may specify in writing from time to time.

19. Third Party Rights, Governing Law and Jurisdiction

19.1 No one other than a party to the Contract and their permitted assignees shall have any rights to enforce any of its terms.

19.2 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 formation, shall be governed by and construed in accordance with English law. 19.3 Each party irrevocably agrees that the English courts shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter.

20. Severability

20.1 If any provisions (or part thereof) herein shall be found to be invalid, ineffective or unenforceable, the other provisions (or part thereof) shall remain unaffected and continue to be applicable to both parties in full force insofar as they can be severed and stand on their own.

21. Intellectual Property Rights

21.1 The Supplier agrees that all intellectual property rights in any design information prepared by the Supplier pursuant to the Contract shall vest in and be owned wholly and exclusively by the Affiliate who have the right to use the same in any manner it thinks fit.

21.2 In the event that any intellectual property rights in such design information remain the property of third parties, the Supplier shall at its own expense obtain from such third parties a royalty free licence for the Affiliate to use the same in any manner it thinks fit.

21.3 The Supplier shall indemnify the Affiliate against any actions by third parties and all expenses and liabilities arising out of any infringement of any patent, registered design, copyright, trademark licence or any other intellectual property right resulting from the use by the Affiliate of the design information or the performance of the Contract by the Supplier, or the use by the Affiliate or any of its Affiliates of the Goods.

22. Special Terms

22.1 Please acknowledge receipt of the Order which accompanies these Conditions and confirm delivery details to the delivery address.

22.2 Order Number and Catalogue Number (where specified) must be referenced on all communication, correspondence and packaging.

22.3 No amendment to this Order shall be actioned without prior written confirmation from the Affiliate.

22.4 Subject always to Condition 22.5, These Conditions, as detailed above, shall apply to all Orders.

22.5 Orders placed under any existing contract entered into by the Supplier and the Affiliate are issued subject to the terms and conditions detailed therein save that the Supplier is also required to comply with conditions 22.8, 22.9 and 22.10 below.

22.6 Relevant health and safety data as required by legislation from time to time in force must be supplied with all Goods. In performing its obligations under the Contract, the Supplier shall comply with all applicable laws, statutes and regulations from time to time in force.

22.7 COPYRIGHT ACT 1988 - This Order is issued on the understanding that all copyright in any photocopy/artwork produced pursuant to this Order shall vest in the Affiliate absolutely and all rights of the photographer/artist in relation to the photographs/artwork are hereby surrendered and determined.

22.8 In performing its obligations under the Contract the Supplier shall comply, and ensure that each of its subcontractors and suppliers involved in the provision of the Goods (including without limitation any part of the supply chain related to the supply or manufacture of the Goods) comply, with the Modern Slavery Act 2015.

22.9 The Supplier warrants and represents that all information it has provided to the Affiliate in response to the Affiliate's modern slavery questionnaire and any supplemental written questions that the Affiliate has subsequently asked the Supplier relating thereto is true, accurate and not misleading in any respect.

22.10 The Supplier repeats the representations and warranties in Condition 22.9 on each day that the Contract (or where applicable pursuant to Condition 22.5 above an existing contract) remains in force by reference to the facts and circumstances existing on each such date.