



1. Interpretation

1.1 Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Company: Sussex Transport Limited (t/a ST Containers) (Co. No. 04399088) whose Registered Office is at Downsview House, Marlborough Road, Lancing Business Park, Lancing, West Sussex BN15 8SU

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 12.3.

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 or firm who purchases the Goods from the Company.

Force Majeure Event: an event or circumstance beyond a party's reasonable control.

Goods: the goods (or any part of them) set out in the Order.

Order: the Customer's order for the Goods, as set out in the Customer's purchase order form, the Customer's written acceptance of the Company's quotation, or overleaf, as the case may be.

Specification: any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Company.

1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its successors and permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (e) A reference to **writing** or **written** includes fax and email.



2. Basis of contract

- 2.1 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 law, trade custom, practice or course of dealing. In the event of any conflict between these Conditions and any other terms sought to be imposed or incorporated, these Conditions shall prevail.
- 2.2 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 are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when the Company issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 2.4 Any samples or drawings (which do not form part of the Specification) produced by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures 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.
- 2.5 A quotation for the Goods given by the Company shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days from its date of issue unless stated otherwise

3. Goods

- 3.1 The Goods are as agreed between the Company and the Customer and as described in the Specification.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify 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 reasonable professional costs and expenses) suffered or incurred by the Company in connection with any claim made against the Company for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Company's use of the Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 The Company reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.



4. Delivery

- 4.1 The Company shall agree with the Customer on the date an Order is placed by a Customer a date for the delivery of the Goods which shall be treated as an approximate date for delivery. Time shall not be of the essence and the Company shall not be held liable for any losses arising from late delivery of the Goods, however caused. The Company shall confirm the actual delivery date, which may be earlier than the approximate delivery date, by written notice to the Customer.
- 4.2 The location of delivery shall be agreed in writing between the parties. The Customer shall provide appropriate personnel to supervise the delivery and the driver making the delivery to site. The Customer shall be responsible for ensuring access to the location of delivery is granted and procuring any required consents, authorities or permissions required from a third party to enable such delivery. It is the Customers responsibility to ensure access to the delivery site is suitable, appropriate and accessible for a heavy goods vehicle as well as the health and safety of all personnel supplied by the Company to affect the delivery. In the event of an abortive delivery caused by the Customer not complying with this Clause 4.2, then the Customer shall be charged the reasonable costs arising from such abortive delivery.
- 4.3 The Company reserves the right to delay or defer any date for delivery agreed under Clause 4.1 until payment is received from the Customer by the Company in accordance with Clause 7.6 of this Agreement.
- 4.4 The Company, or any haulier employed by the Company for transportation, reserve the right to reasonably refuse delivery due to issues arising from, but not limited to, weather conditions, ground conditions, accessibility and obstacles unless specifically agreed in advance with the Company
- 4.5 Should the Customer fail to take delivery of the Goods or fail to provide adequate delivery details, or assistance with such delivery as set out above, then without prejudice to any other remedies that the Company may have, the Company shall be entitled to store the Goods until the actual date of delivery and shall be entitled to charge to the Customer the reasonable costs of storage including but not limited to insurance. If after 30 days an alternative date for delivery has not been agreed between the Company and the Customer, the Company shall be entitled to sell the Goods to a third party and shall account to the Customer for any excess generated on such sale (less reasonable costs of storage and sale) or alternatively be entitled to charge the Customer for any shortfall arising which is less than the price of the Contract plus reasonable costs of storage and sale.
- 4.6 Delivery shall be regarded as completed when the unloading of the Goods at the agreed location is concluded.



4.7 Following successful delivery, the Customer shall be responsible for inspecting the goods. Any defect or matter by which the Customer claims that the goods are defective or do not match the Specification must be notified in writing to the Company within 7 days of delivery. If no such notice is given, the Goods will be regarded as accepted.

4.8 The Company may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5. Quality

5.1 The Company confirms that on delivery, the Goods shall be of satisfactory quality (within the meaning of the Sale of Goods Act 1979):

5.2 Subject to clause 5.3, if:

- (a) the Customer gives notice in writing to the Company within a reasonable time of discovery that some or all of the Goods do not comply with the condition set out in clause 5.1; and
- (b) the Company is given a reasonable opportunity of examining such Goods,

the Company shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

5.3 The Company shall not be liable for the Goods' failure to comply with the condition set out in clause 5.1 in any of the following events:

- (a) the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (b) the defect arises as a result of the Company following any drawing, design or Specification supplied by the Customer;
- (c) the Customer alters or repairs such Goods without the prior written consent of the Company which shall not be unreasonably delayed; or
- (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.

5.4 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.

5.5 These Conditions shall apply to any repaired or replacement Goods supplied by the Company under this Clause 5 as if they were the original Goods.



5.6 The Company shall have no liability under this Clause 5 until the Customer has paid for the Goods in full.

6. Title and risk

6.1 The risk in the Goods shall pass to the Customer on completion of delivery.

6.2 Title to the Goods shall not pass to the Customer until the Company receives payment in full (in cash or cleared funds) for the Goods in which case title to the Goods shall pass at the time of payment being received.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (d) hold any proceeds of sale of the Goods on trust for the Company, such money not to be intermingled with any other money or paid into an overdrawn bank account and shall ensure such money is readily available at all times; and
- (e) notify the Company immediately if it becomes subject to any of the events listed in clause 8.1(b) or clause 8.1(c).

6.4 If until payment is received in full for the Goods, the Company shall have a first and paramount lien over the Goods which are the Companies property.

6.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 8.1(b) or clause **Error! Reference source not found.**, then, without limiting any other right or remedy the Company may at any time:

- (i) require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
- (ii) 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.

7. Price and payment

7.1 The price of the Goods shall be the price set out in the Order, 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.



- 7.2 If a deposit is specified in the Order, unless otherwise agreed this shall be paid in full on the date of the Contract.
- 7.3 The Company may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- (a) any factor beyond the Company's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
 - (c) any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate or accurate information or instructions.
- 7.4 The price of the Goods:
- (a) 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
 - (b) includes the costs and charges of packaging, insurance and transport of the Goods.
- 7.5 The Company will invoice the Customer for the Goods on the placing of the order for the Goods by the Customer..
- 7.6 The Customer shall pay the invoice in full and in cleared funds prior to the date of delivery. Payment shall be made to the bank account nominated in writing by the Company. Time for payment is of the essence.
- 7.7 If the Customer fails to make any payment due to the Company 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 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.
- 7.8 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 Company to the Customer.



8. Termination

- 8.1 Without limiting its other rights or remedies, the Company may terminate this Contract with immediate effect by giving written notice to the Customer if:
- (a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within three working days of that party 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 (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 Customer is an individual, has a bankruptcy petition made against them. This Clause shall apply to any step or action taken in another jurisdiction which is an analogous to the circumstances set out above; or
 - (c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business.
- 8.2 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 the Customer becomes subject to any of the events listed in clause 8.1(a), or the Company reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 8.3 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 8.4 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.
- 8.5 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.
- 8.6 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.

9. Limitation of liability

- 9.1 Nothing in these Conditions shall limit or exclude the Company's liability for:



- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- (d) defective products under the Consumer Protection Act 1987; or
- (e) any matter in respect of which it would be unlawful for the Company to exclude or restrict liability.

9.2 Subject to clause 9.1:

- (a) 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 indirect or consequential loss arising under or in connection with the Contract; and
- (b) 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 of the price of the Goods.

9.3 The restrictions contained in these conditions are accepted by both parties as being fair and reasonable.

10. Ownership of Plans etc.

10.1 All drawings, plans, designs and patterns used in the manufacture of the Goods together with all specifications, technical information and estimates remain the Company's exclusive property even when full payment has been made for the Goods. Copyright remains our property and any such documents referred to in this Clause 10 are confidential and are only to be used by the Customer for the purposes intended by the Contract.

11. 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 delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for six months, the party not affected may terminate this Contract by giving 5 working days written notice to the affected party.

12. General

12.1 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 which shall not be unreasonably delayed.

12.2 Entire agreement.

- (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 agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

12.3 Variation. No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12.4 Waiver. 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.

12.5 Severance. 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 clause shall not affect the validity and enforceability of the rest of the Contract.

12.6 Notices.

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or



- (ii) sent by email to the address usually used by the parties for e-mail correspondence.
- (b) Any notice or communication shall be deemed to have been received:
 - (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - (ii) 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; and
 - (iii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause **12.6(b)(iii)**, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

12.7 Third party rights. No one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.

12.8 Governing law. 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.

Jurisdiction. 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.