

Please note that these General Terms and Conditions are intended for use with customers who are trading or otherwise in business. By proceeding with this purchase you are representing and warranting that you are in business. If you are not a business please contact Puffin Packaging Limited directly before proceeding with your purchase. Puffin Packaging Limited does not deal with customers who are not in business.

The Customer's attention is drawn to the limitations of liability contained in these Terms and Conditions and in particular to the provisions of Clauses 2.3, 2.4, 6.7, 7, 8.2, 9.2, 11, 13, 14, 15 and 19 below. The Customer's attention is also drawn to the provisions of Clauses 17 and 18 below pursuant to which the Customer should examine the Goods promptly after delivery.

1. **Definitions**

In these Terms and Conditions:

- 1.1 "PPL" means Puffin Packaging Limited (registered in England under number 10645325) whose registered office is at Archbold House, Albert Road, Leeds, West Yorkshire, United Kingdom, LS27 8TT.
- 1.2 "Customer" means the individual, partnership, company, authority or other undertaking who buys the Goods.
- 1.3 "Clause" means a clause of these Terms and Conditions.
- 1.4 "Contract" means any particular individual contract for the supply of Goods by PPL to the Customer.
- 1.5 "Customised Goods" means goods which are either (i) placed In Stock especially by PPL for the Customer or (ii) goods on which the Customer's name or trade mark has been printed, embossed or otherwise affixed by or on behalf of PPL.
- 1.6 "Goods" means the goods or materials to be supplied or sold by PPL to the Customer as specified in the Quotation.
- 1.7 "In Stock" means in relation to goods, (i) goods that PPL has in stock or (ii) goods which PPL has contracted to purchase from a Third Party.
- 1.8 "Incoterms" means Incoterms 2020 as published by the International Chamber of Commerce in 2020.
- 1.9 "Intellectual Property Rights" means patents, registered and unregistered trademarks, registered and unregistered designs, applications for any of the foregoing and the right to apply for any of the foregoing in any part of the world, confidential information, business names, brand names, copyright and rights in the nature of copyright and get up, know how, domain names, inventions and database rights and like rights wherever situated in the world.
- 1.10 "Order for Stock Invoice" means an invoice issued by PPL in respect of Goods, whether or not those Goods are already In Stock or yet to be purchased by PPL.
- 1.11 "Party" means PPL or the Customer.
- 1.12 "Purchase Order" means an order placed orally, in writing or by email by or on behalf of the Customer for the Goods.
- 1.13 "Quotation" means the document entitled "quotation", or if there is no such document, then the document entitled "sales order confirmation", in either case as generated by PPL and sent by post or email by PPL to the Customer.
- 1.14 "Regulated Price" means a price determined at the relevant time by PPL as reasonable.
- 1.15 "Sales Order Confirmation" means the document entitled "sales order confirmation", acknowledgment of purchase order" or with a similar title in any such case as generated by PPL and sent by post or email by PPL to the Customer.
- 1.16 "Special Conditions" means any additional terms identified as a "special condition" to this Agreement and included in a Welcome Letter or a Sales Order Confirmation.

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- 1.17 "Specification" means PPL's data sheet or any other written specification provided by PPL for the Goods.
- 1.18 "Third Party" means a person, partnership, company, authority or other undertaking other than a Party.
- 1.19 "Welcome Letter" means a letter which PPL shall be entitled to send to the Customer in any event but which letter PPL shall send to the Customer where the Customer is to receive Customised Goods and which may set out any pre-payment required to be made by the Customer where Customised Goods are to be held In Stock for the Customer.
- 1.20 "Working Day" means any day other than a Saturday, Sunday or a day which is a public holiday in the country in which the place of delivery is due to take place.
- 1.21 Reference to any statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted.
- 1.22 Reference to any Clause is to a clause of these Terms and Conditions.
- 1.23 In these Terms and Conditions and in any Special Conditions: (i) the headings are for convenience only and shall not affect the interpretation of this document or those Special Conditions; (ii) the use of the plural shall include the singular and the use of the singular shall include the plural; and (iii) references to the masculine, feminine or neuter genders shall include each and every gender.
- 1.24 In these Terms and Conditions, "in writing" or "written" shall include email.

2. Applicability of Terms

- 2.1 Unless otherwise expressly agreed in writing by PPL every Contract shall be governed in all respects by these Terms and Conditions and any Special Conditions. These Terms and Conditions shall apply to any services that PPL supplies which are ancillary to the supply of the Goods to the maximum extent feasible.
- 2.2 The Quotation and any similar document is not to be taken as an offer and no Contract shall take effect unless and until (i) a written Purchase Order or a Purchase Order number submitted by the Customer is accepted by PPL in an Acknowledgement of Purchase Order or (ii) where PPL in PPL's absolute discretion so chooses, where PPL despatches the Goods without such written Purchase Order or a Purchase Order number. Any acceptance by PPL shall always be on the provisions of these Terms and Conditions. These Terms and Conditions shall always apply to the exclusion of any terms and conditions contained in or referred to in the Customer's Purchase Order or any other document submitted by the Customer.
- 2.3 Where the Customer transmits the Customer's Purchase Order or any other document by telephone or email, the Customer is solely responsible for any error, omission or delay in the transmission of the Purchase Order or such other document.
- 2.4 PPL shall be entitled to rely in all respects and in all circumstances on the contents of the Quotation as stating the quantity and description of the Goods that are to be supplied. Accordingly, it shall be the Customer's sole responsibility to check the Quotation and to notify PPL forthwith after the receipt of the same where the Goods are not properly stated in the Quotation.
- 2.5 Where there is a conflict between the provisions of the Special Conditions for a Contract and the provisions of these Terms and Conditions, the provisions of the Special Conditions shall prevail, but only in respect of that Contract.
- 2.6 The Customer acknowledges that these Terms and Conditions shall prevail over any qualification, term or condition purported to be imposed by the Customer or proffered by the

Customer (whether in a Purchase Order or any other document or in any other manner) and any previous course of dealing between the Customer and PPL. PPL shall not be bound by and does not agree to any contractual provisions proffered by the Customer save to the extent, if any, that PPL expressly agrees to the same in writing and by expressly referencing those other contractual provisions. The Customer agrees that no other action taken by PPL shall be interpreted as PPL accepting any contractual provisions proffered by the Customer.

- 2.7 Each Contract shall be based solely on these Terms and Conditions and any Special Conditions.
- 2.8 The Customer represents and warrants that it is purchasing the Goods in the course of a business.
- 2.9 PPL intends to send a Welcome Letter where the Customer is to receive Customised Goods, but for the avoidance of doubt PPL shall not be required to do so and PPL shall be entitled to send a Welcome Letter where the Customer is already receiving Customised Goods, even where PPL has not previously sent a Welcome Letter. Further, PPL shall be entitled at any time to amend the Welcome Letter to reflect any changes which PPL is entitled to make pursuant to Clauses 6.4, 6.6 and 6.8 below.

3. Publications and Representations

- 3.1 All descriptions, illustrations and information contained in (i) PPL's catalogues, price lists, web site, advertising matter and other publications and (ii) labels attached or affixed to PPL's containers and packaging or any other collateral item relating to the Goods shall be regarded as approximate only and are to present merely a general idea of the goods described in them and shall not form part of the Contract or be deemed to import any warranty regarding the Goods.
- 3.2 The Customer acknowledges that in entering into a Contract, it has not relied upon any representation made by or on behalf of PPL save to the extent that any such representation is set forth in writing and expressly included in the Contract.
- 3.3 Nevertheless, nothing in these Terms and Conditions or any Special Conditions shall be taken to exclude PPL's liability for a fraudulent misrepresentation made by PPL.

4. Prices

- 4.1 The price of the Goods will be that stated in the Quotation and Sales Order Confirmation. Save to the extent that the contrary may be stated in the Sales Order Confirmation, the basic price of the Goods shall exclude transportation, delivery and insurance during delivery. Where delivery has been agreed, then delivery shall be stated separately on the Quotation and the Sales Order Confirmation. For the avoidance of doubt PPL shall be under no obligation to deliver save where delivery is specified in the Sales Order Confirmation.
- 4.2 In the event of any conflict between the Sales Order Confirmation and the Quotation, the Sales Order Confirmation shall prevail. In the event of any conflict between any Purchase Order and the Sales Order Confirmation, the Sales Order Confirmation shall prevail. In the event of any conflict between the Sales Order Confirmation and a Welcome Letter, the Sales Order Confirmation shall prevail in respect of the Contract to which that Sales Order Confirmation relates.
- 4.3 Save as expressly stated otherwise by PPL in writing, prices are quoted by PPL exclusive of Value Added Tax and any other sales tax, which PPL shall add to the invoice (and which the Customer shall be liable to pay for) at the appropriate prevailing rate. The Customer is solely responsible for all customs duties, import duties or similar duties and taxes. The Customer shall pay all monies owed to PPL in full without deduction of taxes, charges and other duties

that may be imposed except in so far as any such deduction may be credited in full by PPL against PPL's own tax liabilities.

- 4.4 PPL shall be entitled to charge the Customer simple interest on any sums paid late pursuant to a Contract from the due date until the date of payment. Such interest shall be calculated on a daily basis at the rate of four per cent (4%) above the base lending rate of Lloyds Bank plc from time to time prevailing, as well after as before any judgment.
- 4.5 Ice packs may be delivered on blue plastic trays. Where the Goods are delivered on blue or red plastic trays (the "Trays"), the Customer shall:
- a) take good care of the Trays and store the Trays in suitable premises and under proper conditions;
 - b) store the Trays at the Customer's premises in such a way as to keep them clearly identified as being the property of PPL;
 - c) effect all insurances which a prudent and careful businessman would take out in respect of the Trays;
 - d) ensure that the Trays are not modified nor subjected to unusual physical stress, accident, neglect, infestation or misuse or otherwise damage the Trays;
 - e) not sell charge or otherwise transfer the ownership in the Trays nor purport to do so and shall not permit or suffer any of the foregoing to be done; and
 - f) not permit a lien to be created or assert that a lien has been created over the Trays.

5. Reservation of Title – Risk and Property

- 5.1 Risk of damage to or loss of the Goods shall pass to the Customer as specified in the relevant Incoterm specified in the Welcome Letter or the Sales Order Confirmation. Where no Incoterm is so specified, risk of damage to or loss of the Goods shall pass to the Customer at the time at which the Goods are loaded onto the carrier at PPL's premises.
- 5.2 Notwithstanding delivery and the passing of risk in the Goods, the property in the Goods shall not pass to the Customer until PPL has received in cash or cleared funds payment in full of the price of the Goods.
- 5.3 Until such time as the property in the Goods passes to the Customer, the Customer shall hold the Goods as PPL's fiduciary agent and bailee and shall keep the Goods separate from those of the Customer and third parties and identified as PPL's property.

Until such time as the property in the Goods passes to the Customer, the Customer shall:

- a) take good care of the Goods and store the Goods in suitable premises and under proper conditions;
- b) store the Goods at the Customer's premises in such a way as to keep them clearly identified as being the property of PPL;
- c) effect all insurances which a prudent and careful businessman would take out in respect of the Goods;
- d) ensure that the Goods are not modified nor subjected to unusual physical stress, accident, neglect, infestation or misuse or otherwise damage the Goods;

- e) not sell charge or otherwise transfer the ownership in the Goods nor purport to do so and shall not permit or suffer any of the foregoing to be done; and

not permit a lien to be created or assert that a lien has been created over the Goods.

Notwithstanding the provisions of this Clause 5.3 above, the Customer shall be entitled to resell or use the Goods or integrate the Goods with other products provided that the Customer does so in the ordinary course of its business.

- 5.4 Until such time as the property in the Goods passes to the Customer (and provided the Goods are still in separate identifiable existence and have not been resold) PPL shall be entitled at any time to require the Customer to deliver up the Goods to PPL and, if the Customer fails to do so forthwith, to enter upon any premises of the Customer or any Third Party where the Goods are stored and repossess the Goods.
- 5.5 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of PPL, but if the Customer does so all monies owing by the Customer to PPL shall (without prejudice to any other right or remedy of PPL) forthwith become due and payable.
- 5.6 Where at any point in time PPL holds Customised Goods In Stock, and where PPL in its absolute discretion so determines, PPL shall be entitled to require the Customer immediately to purchase all the Customised Goods In Stock, at the Regulated Price. PPL shall be entitled to issue an invoice for such costs at any time after such notice of termination has been received.

6. Payment

- 6.1 PPL shall be entitled to submit an invoice to the Customer at any time after PPL has sent the Customer a Sales Order Confirmation and whether or not the Goods have been assembled or been despatched to the Customer.
- 6.2 Where the Welcome Letter indicates that the Customer is a pro-forma Customer PPL shall send the Customer a pro-forma invoice (namely an invoice for Goods not yet delivered but for which PPL has generated a Sales Order Confirmation). In such circumstances, PPL shall be entitled to submit an invoice to the Customer at any time after PPL has sent the Customer a Sales Order Confirmation. PPL shall in any event not be obliged to despatch the relevant Goods until payment in full of the pro-forma invoice. For the avoidance of doubt, where there is no Welcome Letter or where a Welcome Letter is silent as to whether or not a Customer is a pro-forma Customer, the Customer shall be considered to be a pro-forma Customer.
- 6.3 Where the Welcome Letter indicated that the Customer is to receive Customised Goods and indicates that an initial Order for Stock Invoice will be sent to the Customer, PPL shall be entitled to submit that Order for Stock Invoice to the Customer at any time after PPL has sent the Welcome Letter to the Customer. PPL shall in any event not be obliged to despatch any Goods until payment in full of that or any other Order for Stock Invoice.
- 6.4 Irrespective of anything contained in the Welcome Letter, PPL shall be entitled in its absolute discretion to send an Order for Stock Invoice to the Customer in respect of Goods at the Regulated Price. Without limitation to the foregoing provision, PPL shall be entitled to send an Order for Stock Invoice where the Customer has made no purchase for such period as PPL shall in PPL's absolute discretion deems apposite. PPL shall in any event not be obliged to despatch any further Goods to the Customer until payment in full of any outstanding Order for Stock Invoice.
- 6.5 Unless otherwise stated in the Sales Order Confirmation, the Customer shall pay PPL's invoice (including any pro-forma invoice and any initial order for stock) in full within thirty (30) days of the date of the invoice.

- 6.6 Notwithstanding the provisions of Clause 5.6 and this Clause 6 above, PPL reserves the right (in PPL's absolute discretion) to require payment in full for the Goods at any time or otherwise to change or rescind any credit facility from time to time given to the Customer.
- 6.7 The Customer shall make no deduction from the invoice price on account of any set-off, claim or counter-claim unless both the validity and the amount thereof have been admitted by PPL in writing.
- 6.8 If the Customer fails to make payments in full by the due date then, without prejudice to any other right or remedy available to PPL, PPL may: (i) suspend any further deliveries to the Customer under the relevant Contract or any other Contract and (ii) apply any payment made by Customer to any invoice or Items as PPL may in its absolute discretion determine (notwithstanding any purported instructions by the Customer); and (iii) charge the Customer simple interest as provided for in Clause 4.4. If the Customer does not pay due amounts within thirty (30) days of a notice from PPL referring to this provision, PPL shall be entitled to cancel any Contract between the parties not yet completed and invoice the Customer for any Goods which PPL has In Stock on behalf of the Customer and which the Customer has not yet paid for.

7. Delivery

- 7.1 Where PPL agrees or states a specified delivery date, PPL shall use reasonable endeavours to deliver on or before the relevant date, but PPL shall be under no obligation to do so.
- 7.2 Time shall not be of the essence with respect to any of PPL's obligations arising pursuant to a Contract.
- 7.3 PPL shall not be liable in respect of any loss incurred by the Customer arising from any delay in delivery of the Goods or performance of any service.
- 7.4 Save where specified to the contrary in a Sales Order Confirmation, PPL shall be responsible for making delivery only Ex Works, where that phrase has the meaning given to it by Incoterms. Where a different Incoterms has been agreed, risk shall transfer to the Customer as stated in that provision of Incoterms.
- 7.5 In the event of any conflict between the provisions of Incoterms and these Terms and Conditions, then these Terms and Conditions shall prevail.

8. Delivery by Instalments

- 8.1 PPL shall be entitled to deliver the Goods referred to in an Sales Order Confirmation by instalments. Where PPL does so, each instalment shall be treated as if it constituted a separate and distinct contract between PPL and the Customer.
- 8.2 Where PPL delivers in instalments, any failure, suspension or delay by PPL in respect of any instalment or the discovery of any defect in any instalment shall not entitle the Customer to cancel the remainder of the Goods referred to in the relevant Sales Order Confirmation or any other Contract.

9. Suitability of Storage and Offloading Facilities, Failure to Accept Delivery when Tendered

- 9.1 Where PPL arranges for delivery of the Goods, PPL (or a carrier) reserves the right at any time to refuse to make delivery of the Goods if in its sole opinion the storage and offloading facilities proposed by the Customer are unsafe, inadequate or unsuitable.
- 9.2 Notwithstanding Clause 9.1, where the Goods are delivered by or on behalf of PPL such delivery shall in no way constitute a commitment or representation by PPL as to the adequacy or suitability of the Customer's storage or offloading facilities. The Customer shall at all times

and in any event be solely responsible and liable to ensure that the Customer's storage and offloading facilities are (i) safe, adequate and suitable and (ii) dry and in particular protect the Goods from the ingress of water or other liquid.

- 9.3 The Customer shall make its premises available for delivery between the hours of 8:00 a.m. and 6:00 p.m. on every Working Day.

10. Delay by Customer

- 10.1 Where any delay in the assembly, provision or delivery of the Goods is caused by the Customer, PPL shall be entitled to charge the Customer all proper costs arising out of such delay including without limitation any cost of returning the Goods to PPL's or other storage premises, of storing the Goods and of re-delivering the Goods.
- 10.2 Where any delay in the provision or delivery of any services is caused by the Customer, the Customer shall be responsible for any additional costs or losses arising out of such delay.

11. Force Majeure

- 11.1 In this Clause 11, "Force Majeure Event" means an event beyond the reasonable control of the Party claiming the benefit of the Clause (including its sub-contractors) including, without limitation, act of God, war, riot, civil commotion, compliance with a change in law or governmental order, rule, regulation or direction, fire, flood, storm, epidemic, strike or other industrial action (including without limitation a strike or other industrial action by the employees of the Party claiming the benefit of the Clause), failure by any statutory undertaking, utility company, local authority, internet access provider, communication provider or similar body to provide services, any failure, shortage of power, fuel, raw material, component or transport.
- 11.2 Neither Party shall be under any liability to the other Party in respect of any failure to perform or delay in performing any of its contractual obligations to the other Party (other than an obligation to pay monies) attributable to any Force Majeure Event and no such failure or delay shall be deemed for any purpose to constitute a breach of contract.
- 11.3 The Party claiming the benefit of this Clause 11 shall (i) give the other Party oral or written notice as soon as reasonably practicable of the said Force Majeure Event; and (ii) use and continue to use its reasonable endeavours to overcome the said Force Majeure Event and to minimise the effect of the Force Majeure Event.

12. Termination

- 12.1 For the purposes of this Clause 12, a "Termination Event" means where:
- a) the Customer makes any voluntary arrangement with its creditors or (being an individual (or in the case of a partnership, any partner) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or has an administrator or administrative receiver appointed over the whole or any part of its assets; or
 - b) an encumbrancer takes possession, or a receiver is appointed over any of the property or assets of the Customer; or
 - c) the Customer ceases, or threatens to cease, to carry on business; or
 - d) any event takes place in any jurisdiction other than England which is analogous to any of the above provisions of this Clause 12.1; or

- e) the Customer is in breach of any material provision of any Contract and fails to remedy such breach within thirty (30) days of a notice from PPL indicating the breach and requiring the Customer to remedy the same.
- 12.2 Where a Termination Event occurs then, without prejudice to any other right or remedy available to PPL, PPL shall be entitled to suspend any further deliveries under the Contract.
- 12.3 Where a Termination Event occurs and if the Goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 12.4 At any time after a Termination Event occurs and whether the relevant Goods have been delivered or not, PPL shall be entitled to, without prejudice to any other right or remedy, terminate any Contract with immediate effect by written notice so to do.
- 12.5 Where a Termination Event occurs, and the Customer has Customised Goods In Stock on behalf of the Customer, PPL shall be entitled to require the Customer immediately to purchase all the Customised Goods In Stock, at the Regulated Price.¹ PPL shall be entitled to issue an invoice for such costs at any time after such notice of termination has been received.
- 12.6 Any termination of a Contract howsoever arising shall be without prejudice to any rights or liabilities accrued as at the date of termination.
- 13. **Limited Guarantee**
 - 13.1 PPL's only responsibility shall be to ensure that when the Goods leave PPL's premises they are substantially in accordance with the Specification. If the Specification has not previously been supplied to the Customer or is not available on PPL's web site, PPL will supply the Specification to the Customer on request.
 - 13.2 PPL guarantees that the Goods when they leave PPL's premises, they are substantially in accordance with the Specification.
 - 13.3 PPL shall not be liable under this guarantee or otherwise for any use of the Goods by the Customer (or any Third Party) outside the use for which the Specification was originally written by PPL.
 - 13.4 PPL shall be entitled to make any improvement to the Goods at any time prior to dispatch and without giving any notice to the Customer. In the event that PPL makes any other modification to the Goods, it shall as soon as reasonably practicable give notice in writing or by email to the Customer and inform the Customer of the variation in the Specification.
- 14. **Samples and Further Guarantee of Quality**
 - 14.1 Except where the Goods are specifically ordered in writing against samples supplied by PPL and the Quotation expressly refers to those samples, any and all samples supplied by PPL are supplied for information only. Where the Customer requires an additional warranty that the Goods comply with such a sample, the Customer must communicate the same to PPL prior to the issue of the Sales Order Confirmation. Where PPL agree to that additional warranty, that warranty PPL shall expressly record that warranty in writing in the Sales Order Confirmation.
 - 14.2 Save to the extent that a warranty (if any) is expressly included in the Welcome Letter or a Sales Order Confirmation, in all circumstances PPL shall be entitled to make non-substantial variations in the Goods, including without limitation (i) in the colour, thickness and tensile strength of the Goods or any printing on the Goods and (ii) in any contaminants indicated in the Specification. In such circumstances, PPL's only warranty is that the Goods when they

¹ For a general right for PPL to do the same, please see new Clause 5.6.

leave PPL's premises are substantially in accordance with the Specification, as further provided for in Clause 13 above.

- 14.3 Where a warranty is expressly recorded in the Welcome Letter or the Sales Order Confirmation, then unless otherwise expressly stated in that warranty, the following shall apply:
- a) the warranty shall be solely based upon any sample supplied for the Goods and the Specification of the Goods;
 - b) in the event of any inconsistency between the sample supplied for the Goods and the Specification for the Goods, the Specification for the Goods shall prevail;
 - c) PPL shall use reasonable efforts to manufacture the Goods within the tolerances stated in that warranty and that the Goods shall meet that warranty when they leave PPL's premises;
 - d) PPL shall test a statistically significant number of the Goods manufactured to verify that the warranty has been met; and
 - e) in any event the Customer shall test a statistically significant number of the Goods received to validate that the warranty has been met.
- 14.4 PPL does not give any further warranty about compliance of the Goods with any sample other than as provided for above and in Clause 15.9.

15. **Liability**

- 15.1 Save as expressly provided in Clause 14 above and an individual Contract, all terms, conditions and warranties implied by statute, common law or otherwise howsoever arising are excluded to the fullest extent permitted by law. The Customer is solely responsible for satisfying itself and others as to the suitability of the Goods for any particular purpose and the Customer acknowledges that it is relying solely on the Customer's own skill and judgment and not PPL's in determining such suitability.
- 15.2 PPL's charges to the Customer are determined on the basis of the exclusions from and limitations of liability contained in these Terms and Conditions. The Customer expressly agrees that these exclusions and limitations are reasonable because of (amongst other matters) the possibility that the amount of damages awardable to the Customer for a breach by PPL of a Contract may be disproportionately greater than the price of the Goods.
- 15.3 PPL is willing to arrange for additional insurance cover to enable PPL to take on the burden of additional liability to the Customer provided that the Customer pays PPL commensurately higher charges for the Goods. If the Customer wishes PPL to obtain a quotation for such additional insurance cover, the Customer shall notify PPL accordingly prior to the Contract being entered into.

- 15.4 Where the Goods are to be used in a situation where a reasonable user would not use the Goods without first undertaking a risk analysis assessment of Goods, including without limitation where the Goods are to be used in the packaging of medicines or medical devices, the Customer shall not use the Goods or cause the Goods to be used without first undertaking such a risk analysis assessment. Where as a result of that risk analysis assessment the Customer requires the Goods to be manufactured to greater specification than that offered in the Specification and in accordance with the provisions of Clause 14.2, PPL is willing to arrange to manufacture the Goods to a higher specification at a higher price, in accordance with the other provisions of Clauses 13 and 14.
- 15.5 The following provisions in this Clause 15 set out PPL's entire liability (including any liability for the acts and omissions of its employees, agents or sub-contractors) to the Customer in respect of:
- a) a breach of PPL's contractual obligations;
 - b) a tortious act or omission for which PPL is liable;
 - c) an action arising out of a misrepresentation made by or on behalf of PPL;
- arising in connection with the performance or contemplated performance of a Contract or out of an act done or omission made as a consequence of the entry into by PPL of a Contract.
- 15.6 The total liability which PPL shall owe to the Customer and in respect of all claims howsoever arising pursuant to a Contract shall not exceed an amount equal to the sum of five hundred thousand pounds (£500,000).
- 15.7 PPL shall in no circumstances be liable to the Customer for any pure economic loss, loss of profit, loss of business and like loss. PPL shall in no circumstances be liable to the Customer for any indirect loss. PPL shall in no circumstances be liable to the Customer for any wasted expenditure, howsoever arising.
- 15.8 The Customer shall only be entitled to bring a claim against PPL where the Customer issues legal proceedings against PPL within the period of twenty four (24) months commencing on the date upon which the relevant Goods are despatched by PPL.
- 15.9 The exclusions from and limitations of liability referred to in this Clause 15 do not apply so as to exclude or limit PPL's liability for:
- a) death or personal injury resulting from the negligence of PPL, its servants or agents;
 - b) damage for which PPL is liable to the Customer under Part I of the Consumer Protection Act 1987; or
 - c) breach of PPL's implied undertaking as to title to the Goods or the warranty as to quiet possession implied by law or statute;
- save that nothing in this Clause 15 shall confer a right or remedy upon the Customer to which the Customer would not otherwise be entitled.
- 15.10 The exclusions from and limitations of liability set out in this Clause 15 shall be considered severably. The invalidity or unenforceability of any one part of this Clause 15 shall not affect the validity or enforceability of any other part of this Clause 15.
- 15.11 The provisions of this Clause 15 shall survive the termination of any Contractor these Terms and Conditions.

16. **Intellectual Property**

The supply of any of the Goods by PPL shall not give the Customer any rights whatsoever in respect of any Intellectual Property Rights owned, used or enjoyed by PPL in connection with

the Goods, save a limited licence to use those Intellectual Property Rights in accordance with their normal use and within the use envisaged by the Specification.

17. Inspection

- 17.1 Without prejudice to the provisions of Clause 9.2, the Customer shall inspect the Goods within two (2) hours of delivery for any immediately apparent damage to the exterior packaging of the Goods, including in particular any damage to the exterior of the Goods (including the exterior plastic wrapping of Goods on pallets) that may allow the ingress of water or other liquid to the Goods.
- 17.2 The Customer shall inspect the Goods for any defect, shortage, damage or other loss whilst in transit as soon as is practicable after actual delivery and shall give to PPL and the carrier notice in writing before the end of the third Working Day after actual delivery of any claim for any such defect, shortage, damage or other loss. If the Customer fails to do so, the Goods shall be conclusively presumed to have been received and accepted by the Customer without any claim for any defect, shortage, damage or other loss in transit.
- 17.3 The provisions of Clause 17.1 and 17.2 shall only apply where any claim for any defect, shortage, damage or loss to the Goods is apparent following a reasonable inspection of the Goods.

18. Testing and Claims for Failure to meet Specification or Warranty

- 18.1 Where the Customer is expected to test the Goods in accordance with the provisions of Clause 14.3(e), the Customer shall do so in a timely manner and in any event within fourteen (14) Working Days after actual delivery and shall promptly give to PPL and the carrier notice in writing of any issue arising out of such testing (including without limitation any issue as to a breach of the warranty given in Clauses 13 and 14). If the Customer fails to do so, the Goods shall be conclusively presumed to have been received and accepted by the Customer without any claim that the Goods are not in compliance with the warranty given in Clauses 13 and 14.
- 18.2 Without prejudice to the provisions of Clause 18.1, where the Customer wishes to test the Goods to ensure that they are in compliance with the Specification, the Customer shall undertake such testing in a timely manner and in any event within fourteen (14) Working Days after actual delivery and shall promptly give to PPL and the carrier notice in writing of any issue arising out of such testing (including without limitation any issue as to a breach of the warranty given in Clauses 13 and 14). If the Customer fails to do so, the Goods shall be conclusively presumed to have been received and accepted by the Customer without any claim that the Goods are not in compliance with the warranty given in Clauses 13 and 14.

19. Claims by Third Parties

The Customer shall fully and effectually indemnify PPL against any claims or proceedings brought by a Third Party and resulting from any injury, loss or damage caused by or arising out of the onward sale of any product or service using the Goods, the use to which any such product or service is put or a failure to use the Goods in accordance with or outside the applicable Specification.

20. Export Sales

- 20.1 The provisions of this Clause 20 shall apply only where the Goods are being exported outside the United Kingdom.
- 20.2 It is hereby agreed between the parties that the United Nations Convention on Contracts for the International Sales of Goods shall not apply to any Contract.

- 20.3 The Customer shall be responsible for complying with any legislation or regulations governing the importation or use of the Goods into the country of destination and for the payment of any duties on them.
- 20.4 Unless otherwise agreed in writing as a Special Condition, PPL shall be under no obligation to give notice under Section 32(3) of the Sale of Goods Act 1979.

21. **Assignability**

The Customer shall not be entitled to assign the benefit or burden of the whole or any part of any Contract without the prior written consent of PPL. PPL be entitled to sub-contract the performance of its obligations under a Contract as it sees fit, provided always that PPL shall remain responsible for the acts and omissions of its subcontractors. PPL be entitled to assign any Contract as it sees fit.

22. **Notices**

22.1 Any demand, notice or communication to be given pursuant to these Terms and Conditions or a Contract shall be in writing and may be served at the Specified Address and if so served shall be deemed to have been duly served:

- a) if delivered by hand, when left at the Specified Address;
- b) if sent by first class post in the United Kingdom, 48 hours after being posted to the Specified Address (excluding days that are not Business Days);
- c) if sent by express air mail post, five (5) days after being posted to the Specified Address (excluding days that are not Business Days);
- d) if given or made by e-mail, on the next Business Day after error free transmission to the Specified Email address;

provided that where in the case of delivery by hand such delivery occurs either after 4:00 pm on a Business Day or on a day other than a Business Day, service shall be deemed to occur at 10:00 am on the next following Business Day.

22.2 In this Clause 22:

- a) "Business Day" means any day other than a Saturday, Sunday or a Bank Holiday in England or the country in which the Customer has its principal office;
- b) "Specified Address" means the address for the party given in the Sales Order Confirmation or another address for service for the recipient party regarded as proper under the laws of the country in which that party is established; and

- c) "Specified Email Address" means in the case of PPL: hello@puffinpackaging.co.uk and in the case of the Customer, an email address which has been previously used by the Customer regularly to receive e-mail correspondence from PPL (or such other address or e-mail as may have been notified in writing by one party to the other expressly for such purpose from time to time).

23. **Severability**

If any provision in a Contract is determined by a Court or tribunal of a competent jurisdiction to be wholly or partly unenforceable for any reason (i) such unenforceability shall not affect the rest of that Contract; and (ii) the Parties shall in good faith amend and if necessary novate that Contract to reflect as near as may be the spirit and intention behind such unenforceable provision or provisions so that the same comply with the laws of that jurisdiction.

24. **Status**

Nothing in these Terms and Conditions or any Contract shall create any joint venture, agency or partnership between PPL and the Customer.

25. **Variations**

All variations to any Contract or to these Terms and Conditions shall be valid only if recorded by the Parties by written agreement or by exchange of email.

26. **Third Party Rights**

A Third Party shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any provision of any Contract or these Terms and Conditions.

27. **Proper Law**

Every Contract to which any Contract or to these Terms and Conditions applies shall be construed and take effect in accordance with the laws of England. The Parties hereby accept the non-exclusive jurisdiction of the English Courts in connection with any dispute relating to the formation, construction or performance of a Contract or these Terms and Conditions or any tortious claim related to the Goods or related to the relationship between the Parties.