

Continental Bottle Company Ltd

Terms and Conditions of Purchase

All goods and services are purchased, subject to the following conditions, which shall prevail over any and all other Terms and Conditions, unless specifically agreed in writing by both parties, and any conditions or stipulations to the contrary are hereby excluded.

1. Definitions

(i) The term 'Buyer' will mean Continental Bottle Company Ltd (Company no. 02606480) of Barlow Drive, Woodford Park Industrial Estate, Winsford, Cheshire, England, CW7 2JZ.

(ii) The term 'Seller' shall mean the person, Firm or Company to whom the Purchase Order is issued.

(iii) The word 'Goods' includes all goods and services covered by the Purchase Order.

(iv) The term 'Purchase Order' shall mean Buyer's Purchase Order which specifies that these conditions apply to it. Buyer will not hold itself responsible for any goods supplied or work done unless such a Purchase Order can be produced.

(v) 'The Contract' shall mean the contract between Buyer and Seller consisting of the Purchase Order, these conditions and any other documents (or parts thereof) specified in the Purchase Order. Should there be any inconsistency between the documents comprising the Contract they shall have precedence in the order herein listed.

2. General

Orders are issued and quotations are accepted by the Buyer subject to the following terms and conditions and no variation, waiver or addition thereto shall be binding except as agreed to by both parties in writing. Any conditions in a Seller's quotation or other document of the seller shall be of no effect and excluded and shall not in any way bind the Buyer.

3. Delivery Date

The date of delivery of the goods shall be that specified in the Purchase Order unless agreed otherwise between Buyer and Seller. Seller shall furnish such programmes of manufacture and delivery as Buyer may reasonably require and Seller shall give notice to Buyer as soon as practicable if such programmes are likely to be delayed. Where Buyer so requests delivery dates agreed in writing by Seller shall be firm and guaranteed. Where the goods are supplied in instalments, the Buyer shall be entitled to treat the delivery of each instalment as the performance of a separate distinct and independent contract and these conditions shall be deemed to form part of each such separate contract.

4. Incorrect Delivery

All goods must be delivered at the delivery point specified in the Purchase Order. If goods are incorrectly delivered, Seller will be held responsible for any additional expense incurred in delivering them to their correct destination.

5. Excess Deliveries

The right is reserved to return at Supplier's risk and expense any goods delivered in excess of the quantities ordered unless the excess is within normal trade variations.

6. Passing of Property and Risk to Buyer

Property, title and risk in the goods shall pass to the Buyer when they are delivered at the point specified in the Purchase Order.

7. Loss or Damage in Transit

Buyer shall advise Seller and the Carrier (if any) in writing, otherwise than by a qualified signature on any Delivery Note, of any loss or damage within the following time limits:

(i) Partial loss, damage, defects or non-delivery of any separate part of a consignment shall be advised within 14 days of date of delivery of the consignment or part consignment.

(ii) Non-delivery of whole consignment shall be advised within 28 days of notice of despatch.

7.2 Seller shall make good free of charge to Buyer any loss or damage to or defect in the goods where notice is given in compliance with this condition.

8. Acceptance

(i) Without prejudice to any other rights under the contract the Buyer reserves the right to reject within a reasonable time any goods supplied which do not conform in all respects to the Purchase Order and any of the goods so rejected shall be returned to the Seller at the Seller's risk and expense. The Seller shall be given a reasonable opportunity to replace such rejected goods and in the event of failure to do so the Buyer shall have the right to purchase same or similar goods elsewhere and any additional costs incurred will be charged to the Seller. Payment by the Buyer in respect of any goods shall not constitute a waiver of the rights contained in this clause.

(ii) By accepting this purchase order you are confirming that all materials to be supplied conform to the EU REACH regulations.

9. Variations

(i) Seller shall not alter any of the goods, except as directed in writing by Buyer but Buyer shall have the right, from time to time, during the execution of the Contract, by notice in writing to direct the Seller to add to or omit, or otherwise vary the goods, and seller shall carry out such variations and be bound by the same conditions, so far as applicable, as though the said variations were stated in the Contract.

(ii) Where Seller receives any such direction from the Buyer which would occasion an amendment to the Contract Price Seller shall, with all possible speed advise Buyer in writing to that effect giving the amount of any such amendment, ascertained and determined at the same level of pricing as that contained in Seller's tender.

(iii) If, in the opinion of Seller, any such direction is likely to prevent Seller from fulfilling any of his obligations under the Contract he shall so notify Buyer and Buyer shall decide with all possible speed whether or not the same shall be carried out and shall confirm his instructions in writing and modify the said obligations to such an extent as may be justified. Until Buyer so confirms his instructions they shall be deemed not to have been given.

10. Cancellation

The Contract or any part thereof may be cancelled at any time by the Buyer giving the Seller notice in writing. A fair and reasonable price shall be paid for all work in progress at the time of the cancellation and subsequently received by the Buyer. The Buyer shall not be liable for any loss to the Seller including consequential loss.

11. Patent Rights

Seller shall indemnify the Buyer against all costs claims or losses resulting from the infringement of Letters Patent Registered Design Trademark or Copyright arising out of the use or sale by the Buyer of the goods provided that the Buyer shall notify the Seller in writing within a reasonable time on becoming aware of such infringement and shall permit the Seller to conduct at the Seller's expense any litigation in connection therewith.

12. Progress and Inspection

Buyer's Representatives shall have the right to progress and inspect all goods at the Seller's works and the works of Sub Contractors at all reasonable times and to reject goods that do not comply with the terms of the Contract. Seller's sub-contracts shall be made accordingly. Any inspection, checking approval or acceptance given on behalf of Buyer shall not relieve Seller or Sub Contractors from any obligation under the Contract.

13. Buyer's right in Specification, Plans, Drawings, Patterns etc.

Any specifications, plans, drawings, patterns or designs supplied by Buyer to Seller in connection with the Contract shall remain the property of Buyer and any information derived therefrom or otherwise communicated to Seller in connection with the Contract shall be regarded by Seller as secret and confidential and shall not, without the consent in writing of Buyer, be published or disclosed to any third party, or made use of by Seller except for the purpose of implementing the Contract.

14. Assignment and Sub-letting

The Contract shall not be assigned by Seller nor sub-let as a whole. Seller shall not sub-let any part of the work without Buyer's written consent. Seller shall be responsible for all work done and goods supplied by all Sub-Contractors.

15. Free Issue Materials

Where Buyer, for the purposes of the Contract, issues materials free of charge to Seller, such materials shall be and remain the property of the Buyer. Seller shall maintain all such materials in good order and conditions subject, in the case of tooling, patterns and the like to fair wear and tear. Seller shall use such materials solely in connection with the contract. Any surplus materials shall be disposed of at Buyer's discretion. Waste of such materials arising from bad workmanship or negligence of Seller shall be made goods at Seller's expense.

16. Warranty

Seller shall, as soon as reasonably practicable, repair or replace all goods which are or become defective during the period of 12 months from putting into service where such defects occur under proper usage. Repairs and replacements shall themselves be subject to the foregoing obligations for a period of 12 months from the date of delivery, re-installation or passing of tests (if any) whichever is appropriate after repair or replacement. The Buyer retains the right to claim all costs, damages and expenses incurred as a direct result of failure of all or part of the goods and services supplied against this Purchase order.

17. General Conditions in the Tender

No conditions submitted or referred to by Seller when tendering shall form part of the Contract unless otherwise agreed in writing by Buyer.

18. Performance

Any performance figures or other information supplied by the Seller shall be warranted accurate to the Buyer's specific request.

19. Packages

No charge will be allowed for casks, boxes or packing of any description subject to agreement.

20. Prices

Where price variation conditions are applicable the Buyer will only consider escalation charges up to and including agreed delivery date.

21. Delivery Note/Invoice

All unpriced delivery notes, quoting Order Number and giving weights, quantities and other particulars, should accompany the goods. Invoices should be addressed to Continental Bottle Company Ltd, Barlow Drive, Woodford Park Industrial Estate, Winsford, Cheshire, England, CW7 2JZ and must quote the Buyer's Order Number and the Seller's Delivery Note Number.

22. Health & Safety at Work Act 1974

The Seller hereby warrants to the Buyer that it has -

(a) ensured that the goods/works are so designed and constructed as to be safe and without risks to health when properly used.

(b) that it has carried out such testing and examination of the goods/works as may be necessary for the performance of the duty imposed on the Seller by the preceding paragraph and that it will when supplying the goods/works supply a certificate of testing carried out, where so required by the Buyer.

(c) that it will make available adequate information about the use of goods and about any conditions necessary to ensure that, when put to that use, they will be safe and without risks to health and with respect to Section 6(8) of the Act relating to the interface between the parties it will clearly define any specified steps that have to be taken to ensure that the requirements of the Act are met.

The Seller shall hold the Buyer fully indemnified against any liability by reason of any loss, damage or expense arising from prosecution, death, injury, loss or damage resulting from the operation/use of the goods/works whether by the Buyer or any of its customers or their employees, servants or agents resulting from any breach of the warranties referred to herein.

23. Indemnify

Without prejudice to Clause 21 hereof the Seller shall indemnify the Buyer against any loss claim or cost incurred at Common Law or by statute arising out of the death of or injury to any person (including any employee of the Buyer the Seller or their respective Agents Suppliers or Sub Contractors) or loss or damage to any property (including property of the Buyer) resulting from faulty design or materials (other than design and material furnished by the Buyer) bad workmanship or any act or omission on the part of the Seller.

24. Insolvency

If the Seller becomes insolvent or (being a company) makes an arrangement with its creditors or has a receiver appointed or commences to be wound up (other than for the purpose of amalgamation or reconstruction) the Buyer may without prejudice to any other of its rights terminate the Contract forthwith by notice.

25. Compliance with all Applicable Laws and Regulations

The Seller warrants that the goods shall be produced, sold, delivered and furnished in strict compliance with all applicable laws and regulations to which the goods are subject. The Seller shall execute and deliver such documents as may be required to effect or evidence compliance.

26. Applicable Law

The Contract shall be constructed and governed in accordance with English Law and all disputes arising under or relating to this contract shall be subject to the jurisdiction of the Courts of England. THESE CONDITIONS ARE ADDITIONAL TO ANY RIGHTS ATTACHING TO THE BUYER UNDER STATUTE OR COMMON LAW AND ARE NOT IN SUBSTITUTION THEREOF.