

Wilkes Catering Supplies Ltd

Standard Terms & Conditions of Sale

1. Definitions/Interpretation

- a) In these conditions:
 - “BUYER” means the person who accepted a quotation of the Seller for the sale of the goods or whose order for the goods is accepted by the Seller.
 - “GOODS” means the goods (Including any instalment of the goods or any parts for them), which the Seller is to supply in accordance with these conditions.
 - “SELLER” means Wilkes Catering Supplies Ltd or any associated company.
 - “CONDITIONS” means the Standard Terms & Conditions of Sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.
 - “CONTRACT” means the contract for the purchase and the sales of the goods.
 - “WRITING” includes electronic/e-mail, telex, cable, facsimile transmission and comparable means of communication.
- b) Any reference in these Conditions to any provision of a statute shall be constructed as a reference to that provision as amended, re-enactment or extended as the relevant times
- c) The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. Order Acceptance

Our order acknowledgement is not a contract and does not constitute an acceptance of your order, but only a record of your offer to purchase a particular item at a particular price. By placing your order, you agree to accept all terms and conditions set forth in the Wilkes Catering Supplies Ltd Terms and Conditions of Sale. The Wilkes Catering Supplies Ltd Terms and Conditions of Sales supersede and override all other terms and conditions that may be applied to any order received by the Buyer. Wilkes Catering Supplies Ltd reserves the right to accept, refuse, or limit your order for any reason, including, but not limited to, credit review, product availability or discrepancies in the prices and product descriptions. By placing your order, you agree that the total liability of the Seller, under any legal theory or claim, shall be limited to the purchase price actually paid to the Seller for the product giving rise to the Seller’s liability.

3. Orders and Specifications

- a) The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any application specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- b) If the Goods are to be manufactured or any process is to be applied to the goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall not be entitled to cancel its order for the same.
- c) The Seller reserves the right to make any changes in the specification of the Goods which are required to conform to any applicable statutory or EC requirements or, where the Goods are to be supplied to the Seller’s specification, which do not materially affect their quality or performance.
- d) No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall identify the Seller in full against all loss (including loss of profit), costs, (Including the cost of all labour and materials used), damages, changes and expenses incurred by the Seller as result of cancellation.

4. Retention of Title

Until payment in full to the Seller for the Goods:

- a) The Goods shall remain the property of the Seller, but the risk therein and all liability to third parties in respect therefore shall pass to the Buyer on delivery.
- b) The Buyer may sell the Goods in the normal course of its business but in a fiduciary capacity as bailee of the Goods on condition that the Buyer, for so long as he has not fully discharged his debt to the Seller, shall hold and pursue claims for the proceeds of their sale equal to the price of the Goods for and on behalf of the Seller. The Buyer shall fully pursue such claims and if necessary shall recover the sums due by legal process. The Buyer shall if so required by the Seller, allow the Seller to conduct in the Buyer’s name legal proceedings in respect of the monies due on the sale of the Goods. Any sums recovered by the Seller as a result of such proceedings (include sums accepted by the Seller in settlement therefore whether or not equal to the sums claimed) shall be applied to the reimbursement of the monies due to the Seller from the

Buyer and then the reasonable costs incurred by the Seller in the course of such proceedings. Any balance remaining shall be paid to the Buyer.

- c) Prior to the sale of the Goods they shall be sorted separately from similar Goods of the Buyer and marked as the property of the Seller. The Buyer shall not remove, obliterate or in any manner alter any label, mark or other means the Seller may have of identifying the Goods.

5. Price

- a) All prices are subject to change without notice and Goods ordered will be invoiced at prices current on the day of receipt of the order by the Seller.
- b) All Seller's prices are Net of UK and Foreign Value Added Tax, duties and any other imports which will be paid by the Buyer in addition to the purchase of the Goods.
- c) Goods sold subject to availability, E&OE.

6. Terms of Payment

- a) Unless otherwise agreed, invoices are also statements and rendered "Net Cash" for payment within one month from the date of the invoice.
- b) All payments shall be made to the Seller at it's Accounts Wilkes Catering Supplies Ltd, If the Buyer fails to make payment by the due date the Seller, without prejudice to any other right of remedy and in accordance with the Late Payment Commercial Debts Regulations 2002 (as amended or replaced from time to time), shall be entitled to:
 - Apply Interest charge of Base Rate plus 8 calculated on the overdue balance at the end of the month.
 - Collect any costs incurred in the collection of overdue sums (including, but not limited to, collection of agents fees).
 - Cancel the contract and suspend any further deliveries to the Buyer.

7. Carriage and Delivery

- a) Delivery of the goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the seller delivery the Goods to the place.
- b) Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- c) If the Seller fails to deliver the Goods (or any instalment) for any reasons other than any caused beyond the Seller's reasonable control or the Buyer's fault, and the seller accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods provided in any event that the Buyer's gives notice there of in writing to the Seller within seven days of delivery.
- d) If the Buyer fails to take the delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by the reason any cause beyond the Buyer's reasonable control or by the reason of the Seller's fault) then, without prejudice to any other or remedy available to the Seller may:
- e) Store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage, or
- f) Sell the Goods at the price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the buyer for the excess over the price under the contract or charge the buyer for any shortfall below the price under the Contract.

8. Risk and Property

- a) Risk or damage to loss of the Goods shall pass to the Buyer that the Goods are available for collection, or
- b) In the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection, or
- c) In the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
- d) Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Goods shall not pass the buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other good agreed to be sold by the Seller to the Buyer for which payment is due.
- e) Until such time as the property in the goods passes to the buyer (and provided the Goods are still in existence and have not be resold.), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

9. Liability

- a) Subject to expressly provided in these conditions and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted.
- b) Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these conditions.
- c) Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of effect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the contract.
- d) Where any valid claim in respect of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with the Condition, the Seller shall be entitled to replace the goods (or the part in question) free of charge, or at the Seller's sole discretion, refund the buyer the price of the goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.
- e) Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by means of representation (unless fraudulent), or any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents and otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the goods, except as expressly provided in these conditions.
- f) The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, any failure to perform, any of the Seller's obligations in relation to the goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to generality of the foregoing, the following shall be regarded as caused beyond the Seller's control: Act of God, fire or accident; governmental authority; import or export regulations embargoes; strikes; lock-outs or other industrial actions or trade disputes; difficulties in obtaining raw materials, labour, fuel, parts or machinery; power failure or breakdown in machinery.
- g) The Buyer is responsible for determining whether Goods are suitable for their intended purpose and whilst the Seller may offer technical information/advice, it is without accepting any liability for that information/advice.

10. Insolvency of the Buyer

The clause applies if:

- a) The Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to any administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction), or
An encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the Buyer, or
- b) The Buyer ceases, or threatens to cease, to carry on business; or
- c) The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the buyer and notifies the Buyer accordingly.
- d) If this clause applies then, without prejudice to any other right or remedy available to the Seller, the seller shall be entitled to cancel the Contract within liability to the Buyer, 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.

11. Data Protection

Where appropriate, we will use your details to notify you of special offers, price reviews, new products launches and other relevant information. If you do not wish to receive this information please contact the Wilkes Catering Supplies Ltd

12. Operation of the Law

All contracts between the Seller and the Buyer shall be subject to English Law and to the jurisdiction of the English Courts.