

The following standard conditions apply to every order accepted by HOLMES MANN PACKAGING SYSTEMS LIMITED ("the Company") for the provision of goods and services.

1. DEFINITIONS

"Conditions"	mean the Company's standard Conditions of Sale set out in this document together with any other special conditions specified on the Quotation.
"the Contract"	means the Quotation (if applicable), the Order and the Company's acceptance thereof, together with the Conditions.
"the Goods"	means the goods to be supplied, or the services to be provided by the Company, which are the subject of the contract as specified overleaf.
"the Order"	means the written or verbal order placed by the Customer on the Company for the provision of the goods.
"the Quotation"	means the written or verbal quotation or tender submitted by the Company.
"the Customer"	means the person, firm or company specified overleaf whose Order is accepted by the Company.

2. OFFER AND ACCEPTANCE

- 2.1 All Quotations are made and all Orders accepted subject to the Conditions. These Conditions (which supersede any earlier conditions appearing in the Company's catalogues or elsewhere) apply to all Contracts for the sale of Goods by the Company and override any other terms, conditions or warranties which the Customer may subsequently seek to impose.
- 2.2 No variation waiver or supplement to the conditions shall be binding on the Company unless expressly accepted by a director or manager of the Company in writing.
- 2.3 Any quotation which may be given is an estimate only and all descriptive matter, specifications, performance ratings, capacities, prices, drawings and particulars of weight, finishes, colours and dimensions and other data submitted by the Company (whether in the Quotation or in any catalogues, advertisements or price lists), are deemed to be approximate only (except where expressly stated in writing to be exact), and are intended merely to present a general idea of the goods and/or services available from the Company. No Contract shall come into existence until the Customer's order has been accepted as provided in clause 3.1 by the Company. Quotations are given at the sole discretion of the Company.
- 2.4 Quotations shall be available for acceptance for a maximum period of 21 days from the date thereof, and may be withdrawn by the Company within such time period at any time by written or oral notice.
- 2.5 If any statement or representation has been made to the Customer by the Company or its servants or agents upon which the Customer relies other than in the documents enclosed with the Quotation or acknowledgment of Order then the Customer must set out that statement or representation in a document to be attached to or endorsed on the Order and in any such case the Company may confirm, reject or clarify the point and submit a new Quotation.
- 2.6 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acknowledgment of order, invoice or other document issued by the Company shall be subject to correction without any liability on the part of the Company.
- 2.7 The Company shall be at liberty to withdraw from any negotiations or otherwise until such time as the Contract shall have become binding without being under any liability whatsoever to the Customer.

- 2.8 Any advice or recommendations given by the Company or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Company is followed or acted upon entirely at the Customer's own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.

3. ORDERS AND SPECIFICATIONS

- 3.1 No order submitted by the Customer shall be deemed to be accepted by the Company unless and until confirmed either orally (either by telephone or personally) or in writing by the Company's authorised representative.
- 3.2 The Customer shall be responsible for ensuring the accuracy of the terms of the Order and shall give the Company any necessary information to enable the Company to proceed with the Contract. Any failure to do so will allow the Company to charge the Customer an additional price for any delay or to terminate the Contract immediately.
- 3.3 The Company reserves the right to make any changes in the specification of the Goods where the Goods are to be supplied to the Company's specification, which do not materially affect the quality or performance, without notice.
- 3.4 The Customer shall indemnify the Company and its sub-contractors against all claims, damages, costs, penalties and expenses incurred by the Company or its sub-contractors to which the Company may become liable if any work done in accordance with the Customer's specification involves an infringement of a registered design, trademark, patent or other intellectual property right.
- 3.5 No Order which has been accepted by the Company may be cancelled by the Customer except with the written agreement of the Company and on the terms that the Customer shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation.

4. PRICE

- 4.1 The price for each delivery of the Goods shall be the price quoted by the Company on the acknowledgment Order. Until an Order has become binding on the Company all specifications and price are subject to change without prior notice.
- 4.2 All quotations and prices for Goods are exclusive of value added tax and similar taxes, levies or duties, which the Customer shall be additionally liable to pay to the Company at the appropriate rate prevailing at the date of delivery.
- 4.3 The Company reserves the right, by giving notice to the Customer, at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Company in executing the Contract due to any factor beyond the control of the Company (such as, without limitation, any increase in the cost of labour, raw materials, overheads, or currency), any change in delivery dates, quantities, or specifications for the Goods arising as a result of any error or omission or changes deemed necessary by the Customer, or any delay or interruption on the Contract not attributable to the Company.
- 4.4 The price shall include installation, assembly, packaging, insurance, delivery and transport charges where applicable.

5. TERMS OF PAYMENT

- 5.1 Unless otherwise agreed in writing, the Company shall be entitled to invoice the Customer for the price of the Goods on or at any time after delivery of the Goods, or performance of any service unless the Goods are to be collected by the Customer or the Customer wrongfully fails to take delivery of the Goods, in which event the Company shall be entitled to invoice the Customer for the price at any time after the Customer has been notified that the Goods are ready for collection, or the Company has tendered delivery of the goods.
- 5.2 Unless otherwise agreed by the Company the terms of payment shall be 30 days nett from the date which the invoice was rendered.
- 5.3 The Company reserves the right at its option to require payment in part or in full for the Goods prior to manufacture or despatch and reserves the right to withhold manufacture or delivery of the Goods until such payment is received.
- 5.4 The time of payment of the price shall be of the essence of the contract.
- 5.5 Where Goods are delivered or services performed by instalments the Company may invoice each instalment separately and the Customer shall pay such invoices in accordance with these conditions.
- 5.6 No right of set-off shall exist in respect of any claims by the Customer against the Company unless and until such claims are accepted in full by the Company in writing and the Customer shall not withhold all or any part of any sum which has become due for payment under the Contract.
- 5.7 If the customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to :-
- 5.7.i. cancel the Contract so far as any Goods remain to be delivered or services performed under it, or any servicing or repair work is to be carried out to any Goods during the Warranty Period (as defined in Clause 10.3) or suspend any further delivery of the Goods or performance of any service (including services under the Warranty Period provisions); and
- 5.7.ii charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of five per cent per annum above National Westminster Bank plc base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

6. DELIVERY

- 6.1 Delivery shall mean either delivery by the Company or its agents of the Goods to the Customer's premises, or alternatively delivery of the Goods to the Customer at the Company's premises. The Customer shall specify when placing the Order which method of delivery shall apply.
- 6.2 Non-delivery of the Goods must be notified to the Company within 2 days of the invoice date. Failure to do so shall preclude the Customer from any rights or remedies against the Company whatsoever. If the Company fails to deliver the Goods for any reason other than any cause beyond the Company's reasonable control or the Customer's fault, and the Company is accordingly liable to the Customer, the Company's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 6.3 If the Customer shall fail to accept delivery of the Goods as and when proffered by the Company then

- 6.4 the Company shall be deemed to have tendered and the Customer to have refused delivery at that date. If the Customer fails or refuses to take delivery of the Goods on the due date or fails to give the Company adequate instructions for delivery at the time stated then he shall be liable to the Company for any loss or costs arising from such failure or refusal and for a reasonable charge by the Company for the care custody storage and insurance of the goods until actual delivery. This provision shall be in addition to and not in substitution of any other payment or damages for which the Customer may become liable in respect of his failure to take delivery at the appropriate time.
- 6.5 Any dates quoted for delivery of the Goods are approximate only and the Company shall not be liable for any delay in despatch or delivery or any loss or damage thereby arising. Quotations for Goods to be supplied from stock are made subject to such Goods being in stock and available on acceptance of Order. Time of delivery shall not be the essence, and the Customer shall not be able to cancel the contract, refuse delivery of the Goods or withhold payment on account of any delay howsoever caused.
- 6.6 The Company reserves the right to deliver the Goods in instalments and each such instalment shall constitute a separate contract. Failure by the Company to deliver any one or more of the instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.

7. RISK

- 7.1 The risk of damage to or loss of the Goods shall pass to the Customer when the Goods are delivered to the Customer in accordance with the terms of Clause 6.1.
- 7.2 The Goods shall be deemed to have been delivered complete and in a satisfactory condition unless the Customer shall have notified the Company in writing within two days of delivery of any alleged damage, defect or shortage in delivery, and time shall be the essence. The Customer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 7.3 Unless the condition in Clause 7.2 is strictly observed, the Company shall be under no liability whatsoever in respect of any loss or damage in transit (or non-delivery) of the whole or any part of the Goods.

8. TITLE

- 8.1 Title in the Goods or any part of them or in any Goods of the Company (whether delivered under this Contract or otherwise) shall not pass to the Customer until the Customer shall have paid in full all monies owing under this or any other Contract. The Customer shall keep all Goods properly stored and protected and separate from the goods of third parties in such a way that the Goods can clearly be recognised as the property of the Company.
- 8.2 If the Customer shall be in breach of the terms of this Contract then all monies owed by the Customer to the Company, whether under this Contract or otherwise, shall become immediately due and payable and the Customer hereby grants to the Company or its agents an irrevocable licence to enter upon the Customer's premises to recover and/or resell such Goods as the Company may deem necessary to recover all sums owing to it by the Customer together with any reasonable costs of the Company so incurred. This licence shall continue to subsist notwithstanding the termination of the Contract (howsoever caused) and without prejudice to any accrued rights of the Company under the Contract.
- 8.3 Until all monies owing to the Company (whether under this Contract or otherwise) have been paid in full the

- Goods shall remain the absolute property of the Company and the Customer shall only be entitled to possession of the Goods on these Conditions, and shall hold the Goods in a fiduciary capacity as bailee; and any items affixed to the land and buildings may be detached and removed by the Company and shall not and are not intended to become part of any such property.
- 8.4 The Customer shall keep the Goods in good condition and shall maintain full insurance in respect thereof on the Company's behalf in an amount which is not less than the price payable to the Company for the Goods, and all the proceeds of such insurance shall be held on trust for the Company.
- 8.5 If Clauses 8.1 and 8.3 are held to be invalid to reserve the Company's title to Goods delivered under this Contract by reason of the reservation of title until all Goods delivered to the Customer by the Company have been paid for then nevertheless ownership of the Goods delivered under this Contract shall remain with the Company until those Goods themselves have been paid for.
- 8.6 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 the Company, but if the Customer does so, all monies owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) become immediately due and payable.
- 8.7 The Company shall have a full lien over all Goods of the Customer which may be on the premises of the Company (whether for repair purposes or otherwise) until such time as the Customer shall make payment in full under the Contract, and the Company shall be at full right and liberty to sell those Goods if the Customer shall default in payment or otherwise be in breach of Contract.
- 8.8 If the Company becomes entitled to repossess any Goods by virtue of these Conditions then if the Goods are not clearly identifiable as the property of the Company, then
- 8.8. i it shall be irrebuttably presumed that the Customer has used or sold Goods which belong to the Customer before Goods which belong to the Company; and
- 8.8. ii the Company shall be entitled to exercise its licence under Clause 8.2 above to repossess any Goods which are similar to the Goods belonging to the Company and it shall be irrebuttably presumed that the Goods which the Company shall repossess belong to the Company.
- 9. GUARANTEES**
Any components or parts not of the Company's own manufacture incorporated in the Goods or sold by the Company are not guaranteed by the Company, but carry the maker's guarantee only.
- 10. INSTALLATION AND TESTING**
- 10.1 Where the Company is to install and test Goods under the Contract, the Customer shall:-
- 10.1. i make a site available suitable for the Goods to be supplied and installed, and provide the Company or its servants, agents or sub-contractors with suitable access (including for transport) to and from the Customer's premises for the purpose of delivery, assembly and/or installation and testing.
- 10.1. ii provide power and electricity supplies suitable for the installation assembly and testing of the Goods
- 10.1. iii afford all co-operation to the Company or its agents servants or sub-contractors to tenable the assembly installation and testing of the Goods.
- 10.2 Once the Goods have been installed and tested and are working to the satisfaction of the Company, then the Customer shall sign a form of receipt acknowledging that the installation has been satisfactorily completed.
- 11. LIABILITY**
- 11.1 IT IS SPECIFICALLY DRAWN TO THE CUSTOMER'S ATTENTION THAT IT IS A MATTER FOR THE CUSTOMER TO SATISFY HIMSELF AS TO THE MERCHANTABILITY QUALITY AND FITNESS FOR PURPOSE OF THE GOODS. Prior to delivery of the Goods samples of the goods will be supplied (upon request) to the customer to enable the Customer to decide whether the Goods are satisfactory. The Company warrants that goods supplied will be of the same standard as the samples provided.
- 11.2 Save as specifically set out below, all other express or implied warranties or conditions whatsoever are specifically excluded.
- 11.3 In the event that the Company's Goods or workmanship is proved to be defective within a period of six months from the date of delivery, (the warranty period"), then the Company undertakes at its sole discretion during the warranty period to replace, give credit for, repair or rectify the Company's goods free of charge and subject to any intervening wear and tear to the condition originally specified by the customer provided that:-
- 11.3. i the Customer notifies the Company in writing of its claim within 14 days of discovering the alleged defect giving full details of the alleged defect;
- 11.3. ii the Company shall be entitled and shall be offered the facilities to inspect and test the Goods:
- 11.3. iii (upon examination) the Company's Goods prove to be defective or faulty due to faulty materials manufactured by the Company or defective workmanship of the Company;
- 11.3. iv a person other than the Company has not dismantled repaired or so attempted otherwise tampered with the Goods or any part of the Goods;
- 11.3. v the Goods shall have been used, maintained, stored and serviced (where appropriate) in accordance with their operating instructions and in a proper manner: and
- 11.3. vi the Goods shall not have been used whilst allegedly defective in need of repair or otherwise not in accordance with the Order or the operating instructions of the Company.
- 11.4 The Goods are sold explicitly on the condition that they will be used only in the prescribed manner and for the purpose for which they were designed. The Customer must satisfy himself that the intended use of the Goods is used in the prescribed manner and for the purpose for which the Goods were designed, and the Company shall be under no liability for any damage loss or injury resulting from any misuse of the Goods which is not in accordance with their prescribed manner or design.
- 11.5 Where the Customer provides a specification for Goods to be designed manufactured or assembled by the Company, the Company shall not be liable for any defect in the Goods caused by compliance with that specification.
- 11.6 Nothing in these Conditions shall have the effect of excluding or limiting liability to a person for death personal injury or damage to property as defined in the Consumer Protection act 1987.
- 11.7 Nothing in these Conditions shall impose any liability upon the Company in respect of any loss damage

- consequential or otherwise in relation to or arising out of Goods found to be defective or attributable directly to the acts omissions negligence or default of the Customer or Customer's servants or agents involving (in particular but without prejudice to the generality of the foregoing) any failure by the Customer to comply with any recommendations of the Company as to storage handling and use of the Goods.
- 11.8 If the Company shall become legally liable to the Customer in any way whatsoever then the liability of the company in respect of any or all courses of action shall in no circumstances exceed the invoiced cost of the Goods under the Contract.
- 11.9 The Company's liability does not cover defects arising from the Customer's negligence, wilful damage, faulty assembly, processing or maintenance or from alterations carried out without the Company's written consent or from repairs carried out improperly by the Customer nor does it cover normal deterioration.
- 11.10 Except in respect of death or personal injury caused by the Company's negligence the Company shall not be liable to the Customer by reason of any representation, or any implied warranty, condition or other term, or any duty of common law, or under this Contract, for any consequential loss or damage (whether loss of profit or otherwise), costs, or other expenses whatsoever which arise out of or in connection with the supply of the Goods or their use or resale by the Customer, except as expressly provided in these Conditions.

12. INDEMNITY

The Customer undertakes to indemnify the Company against all claims relating to or arising from Goods sold to the Customer by the Company in respect of any loss, damage or expense sustained by any third party howsoever caused save for death or personal injury caused in whole or in part by the Company's negligence.

13. DEFAULT OR INSOLVENCY OF CUSTOMER

- 13.1 This Clause applies if:-
- 13.1. i the Customer defaults in any of his commitments with the Company; or
- 13.1. ii the Customer makes any voluntary arrangement with his creditors or becomes subject to an administration order or becomes bankrupt; or (being a company) goes into liquidation (other than for the purposes of amalgamation or reconstruction); or
- 13.1. iii an encumbrancer takes possession, or receiver is appointed, of any of the property and assets of the Customer; or
- 13.1. iv the Customer ceases or threatens to cease to carry on business; or
- 13.1. v the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.
- 13.2 If this Clause applies then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel any uncompleted Contracts or to withhold or suspend delivery of any Goods ordered under the Contract.
- 13.3 In the event of an occurrence as outlined in Clause 13.1 then the customer shall indemnify the Company against all loss including loss of profit, costs (including the cost of labour and materials used and overheads incurred) and all other expenses and damages connected with the Order and its cancellation (the Company giving credit to the value of any materials sold or utilised for other purposes)

- 13.4 If the Customer shall become aware that any of the circumstances mentioned in Clause 13.1 has or is likely to occur, then the Customer must inform the Company of the occurrence or likely occurrence of such event immediately.
- 13.5 The breach of any Holding Subsidiary or Associated Company (as defined in section 7.36 Companies Act 1985) of the Customer of any of the terms or conditions of any contract or other arrangement with the Company shall be deemed also to be a breach of the terms of the Contract and shall entitle the Company to take or refrain from taking all acts and remedies to which it is entitled under these Conditions as if such default had been a breach or default under the Contract.

14. FORCE MAJEURE

- 14.1 The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or failure to perform. Any of the Company's obligations in relation to the Contract if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:-
- 14.1. i Act of God, explosion, flood, tempest, fire or accident;
- 14.1. ii War or threat of war, sabotage, civil disturbance or requisition;
- 14.1. iii Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 14.1. iv Import or export regulations or embargoes;
- 14.1. v Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or a third party);
- 14.1. vi Difficulties in obtaining raw materials, labour, fuel, parts of machinery;
- 14.1. vii Power failure or breakdown in machinery

15. GENERAL

- 15.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 15.2 No waiver by the Company of any breach of the Contract by the Customer shall be considered a waiver of any subsequent breach of the same or any other provision.
- 15.3 If any of the provisions of this Contract is held by any Competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions in question shall not be affected thereby.
- 15.4 The Contract shall be governed by the laws of England and for the purposes of settlement of any disputes arising out of or in conjunction with these Conditions or the Contract the Parties hereby irrevocably submit themselves to the jurisdiction of the English Courts.
- 15.5 The Company reserves the right to subcontract the fulfilment of the order or any part of it.
- 15.6 This Contract is between the Company and the Customer and is not assignable without the consent of the Company.