

## **Terms & Conditions of Business**



### **Interpretation**

#### *Agreement*

The Order Form, the Order Acceptance confirmation, the Site Survey Form, and the Terms herein

#### *Company*

CWC Containers Ltd

Company Number: 13143158

#### *Customer*

The person(s) firm or company who purchases a Container Room from the Company

#### *Delivery Site*

The site specified by Customer for delivery of the Container Room

#### *Container Room*

The Container Room specified in the Formal Quotation and/or Order Acceptance confirmation

#### *Formal Quotation*

The document submitted by the Company including details of the agreed specification of the Container Room and all associated prices

#### *Order Acceptance confirmation*

The formal confirmation of order, issued to the Customer following the Customer's confirmation of acceptance of the Formal Quotation and receipt of the requisite deposit.

#### *Property*

The property within or upon which the Delivery Site is located

### **Terms**

The terms and conditions set out below:

#### **1. Basis of Sale**

1.1 The Company will sell the Container Room subject to these Terms.

1.2 The Customer agrees that the Agreement constitutes the entire understanding between the parties hereto and there are no representations, warranties, conditions and terms or obligations (implied or otherwise) whether written or oral, express or implied by custom or otherwise other than those specifically contained in the Agreement

1.3 Any advice or recommendation given by the Company or its employees or agents to the Customer or its employees or agents as to the Container Room, 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.

1.4 Any typographical, clerical or other error or omission in the order confirmation invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

1.5 In these Terms, reference to a statute or statutory provision includes a reference to it from time to time, amended, extended or re-enacted.

1.6 The headings in this Contract are for convenience only and shall not affect their interpretation.

1.7 In these Terms where two or more individuals are included in the expression "the Customer" any obligation provided by them shall be deemed to be made by such persons jointly and severally.

#### **2. Orders**

2.1 All orders will be formally accepted by the Company by the issue of an Order Acceptance confirmation. An Order Acceptance confirmation will only be issued following the Customer's formal acceptance in writing of the Formal Quotation and the Company's receipt of the requisite deposit.

2.2 If for whatever reason no formal Order Acceptance confirmation is issued by the Company, the Customer in accepting delivery and installation of the Container Room shall be bound by these Terms and Conditions.

2.3 Once the Order Acceptance confirmation has been issued by the Company to the Customer it may only be cancelled or the installation date deferred with the written agreement of the Company signed by a director and on the condition that the Customer indemnifies the Company for all costs incurred as a result of the cancellation or deferral including labour, materials, any other charges and expenses.

#### **3. Customer Warranties**

The Customer warrants that;

3.1 the Company will have unrestricted access to an adequate supply of electricity at all times during the delivery and installation at the Property, unless otherwise agreed in writing.

3.2 it will grant the Company suitable access to the Property at all times until payment in full has been made

3.3 the Delivery Site and any access routes to the Delivery Site have the capacity to accommodate the size and weight of the delivery vehicles and its load

3.4 the Delivery Site is accessible and free from any dangers. In particular that the access route to the Delivery Site is sound, level hard-standing and free from any obstructions which may cause issues for the delivery vehicle and lorry-mounted crane.

3.5 it is the proprietor of the Property

3.6 it has obtained all required consents for the installation of the Container Room including (without limitation);

3.6.1 consent from any mortgagee or charge of the Property

3.6.2 consent or planning permission from any local or public authority

3.7 the Delivery Site has not been subject to subsidence, landslip or land-heave

3.8 the installation of the Container Room does not contravene any planning or other regulation or legislation

3.9 the foundation base is suitable and adequate for the Container Room

The Customer hereby agrees at all times to keep the Company indemnified against all claims costs demands and liabilities arising as a result of the Customer's breach of any warranty in this Clause 3 including (without limitation) the costs incurred by the Company as a result of any delay whilst such consents are obtained.

#### **4. Delivery and Installation**

4.1 The Container Room shall be delivered by the Company at the Property using a lorry-mounted crane on the delivery vehicle, unless otherwise agreed in writing.

4.2 The Customer must ensure that access to the Delivery Site has been confirmed suitable and adequate for the delivery vehicle, and is of sound, level hard-standing and free from any obstructions which may prevent safe and efficient manoeuvring and operation of the delivery vehicle and lorry-mounted crane. If access is deemed to be unsuitable, it is the Customer's responsibility to arrange alternative transportation from the closest point of suitable access to the Delivery Site.

4.3 Any date specified by the Company in the Order Acceptance confirmation for the manufacture and delivery of the Container Room is approximate only and will be confirmed by the Company at least 5 working days before delivery. This date shall not be made of the essence by virtue of this confirmation. Where no dates are specified, manufacture and delivery will be within a reasonable time. Subject to the other provisions of the Terms, the Company will not be liable for any loss, costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery or in the actual installation of the Container Room, nor will delay in delivery entitle the Customer to terminate or rescind the Agreement. Any liability of the Company for non-delivery of the Container Room shall be limited to refunding the deposit (if any).

4.4 The Company shall use all reasonable endeavours not to cause damage to the Customer's property and shall make good any damage caused

4.5 If in the reasonable opinion of the Company the delivery site is not accessible or does not otherwise comply with Clause 3 the Company may without limiting its rights and in its absolute discretion defer delivery to a later date subject always to the Customer indemnifying the Company for all additional costs incurred due to such deferment or the Company may cancel the Agreement with immediate effect whereupon the Customer's deposit will be returned less any amount in respect of all the Company's charges and expenses in connection with the Agreement up to the time of such cancellation.

4.6 It is the Customer's responsibility to arrange for a suitable and adequate foundation to be in place prior to delivery of the Container Room and, following delivery, it is the Customer's responsibility to arrange for qualified tradesmen to connect the Container Room to the Customer's utility supplies, and the Company excludes all liability in this respect.

#### **5. Company Warranty**

5.1 The Company warrants that, upon delivery and installation, the Container Room shall be free from any significant defect in materials or workmanship for a period of 12 months.

5.2 If the Container Room does not conform to these warranties the Company will take such steps as it deems necessary to bring the Container Room into a condition where it is free from such defects or, at the option of the Company, refund the purchase price of the Container Room to the Customer provided that the liability of the Company shall not in any event exceed the total purchase price of the Container Room and the taking of the steps it deems necessary shall constitute an entire discharge of the Company's liability under this warranty. If the Company opts to refund the purchase price any such refund is conditional upon the Customer providing the Company with access and all reasonable assistance that it reasonably requires in order to remove the Container Room and upon such removal ownership of the Container Room shall vest in the Company.

5.3 All warranties, conditions and other terms implied by statute or Common Law (save for conditions implied by Section 12 of the Sale of Goods Act 1979) are to the fullest extent permitted by law excluded from the Agreement.

5.4 Where the Container Room is sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Customer are not affected by these Terms.

5.5 Nothing in these Terms excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.

5.6 The warranty given in this Clause 5 shall not apply to any defects in the Container Room arising as a result of any breach of the Customer's Warranties set out at Clause 3 above or as a result of any subsidence, landslip or land-heave affecting the Installation or any other form of instability affecting the Delivery Site.

#### **6. Grafotherm**

6.1 Application of the Grafotherm anti-condensation treatment is applied as per the manufacturer's recommendations. When applied correctly, the treatment is designed to lengthen the period before dew point is reached. This reduces and, in some cases, prevents the periods in which condensation occurs. Thereby vastly reducing the amount of condensation forming in a 24hr period. In all but extreme cases, this will result in total elimination of condensation but, as there are so many external environmental variables that affect the formation of condensation, there is no guarantee that condensation will be completely eliminated, and the Company will not be held liable if condensation does occur.

#### **7. Alteration in Specification**

The Company reserves the right to make any changes in the specification of the Container Room which do not materially alter their quality or function or where it is necessary to conform to any applicable safety or other statutory requirements.

#### **8. Property and Risk**

7.1 Risk in the Container Room shall pass to the Customer upon handover of the keys to the Container Room and responsibility for effecting and maintaining insurance cover passes to the Customer at that time.

7.2 Title in the Container Room shall not pass to the Customer until the Company has received payment in full of all sums due to it in respect of the Container Room.

#### **9. Price and Payment Terms**

9.1 The price for the Container Room shall be set out in the Formal Quotation. The price shall include any Value Added Tax, unless stated otherwise, but excludes any other applicable tax which the Customer may pay in addition to the price.

9.2 All prices quoted are valid for 5 days from the date stated in the Formal Quotation. Any orders placed after this 5-day period has elapsed may be subject to price changes.

9.3 Unless otherwise stated, a deposit of 50% of the sum confirmed in the Formal Quotation is payable on confirmation of ordering the Container Room from the Company. A further staged payment of 30% of the sum confirmed in the Formal Quotation is due on completion of the Container Room, as confirmed by client site visit or site photographs or videos. The remaining balance of all sums (20% of the sum confirmed in the Formal Quotation plus any agreed changes, extras or additions) is payable at the time the keys to the Container Room are handed over to the Customer, and time for payment shall be of the essence. For the avoidance of doubt the full price of the Container Room will be payable on the date that the keys are handed over, notwithstanding that any electricals or plumbing may not be functional due to utilities connections by others not being installed.

9.4 The Customer shall make the full payment due without any deduction whether by way of set-off, counterclaim or otherwise and no payment shall be deemed to have been received until the Company has received cleared funds.

9.5 The Company reserves the right to alter its price list at any time

9.6 The Company has taken all possible measures to minimise the effect of any possible Brexit outcome, or the current Covid-related economic effects. We usually offer to hold any price quoted for 14 days but, unfortunately, due to the unforeseen financial volatility during these unprecedented economic uncertainties and until further notice, we reserve the right to review any quotation provided. We will either honour the contract, or try and agree a revised contract. If we cannot agree a revised contract with the client, we will refund any deposit or monies previously paid.

## **10. Late Payment or Failure to Make Payment**

10.1 If the Customer fails to pay the full payment on the due date, then without prejudice to its other rights and remedies the Company may charge the Late Payment Fee of £100 as well as subsequent interest on the amount unpaid at the rate of 8% per annum above the Bank of England base rate, compounded monthly until payment is made in full, with any part of a month being treated as a full month for the purposes of calculating interest.

10.2 Notwithstanding the above, if full payment has not been made on the due date the Agreement may be terminated forthwith by the Company serving not less than 48 hours written notice to the Customer, whereupon the Company shall be entitled to remove the Container Room and for such purpose the Company shall have an irrevocable licence or authority to enter upon the Delivery Site with such transport as may be necessary to recover the Container Room. The Customer shall render all reasonable assistance to the Company to enable the Customer to disconnect the electricity supply and remove the Container Room from the site.

10.3 If the Company takes the action permitted by Clause 9.2 the Customer shall pay all associated removal fees together with any cost of arranging for an electrician to disconnect the power supply.

## **11. Enforceability and Severability**

Any provision of these Terms which is held to be illegal, invalid, unenforceable or unreasonable whether in whole or part shall to the extent necessary be deemed severable and the other provisions of these Terms and Conditions shall remain unaffected.

## **12. Amendment**

These Terms shall not be amended, modified or varied except in writing signed by a director of the Company.

## **13. Assignment**

13.1 The Customer shall not be entitled to assign or transfer the benefit of the Agreement or any part of it without the Company's prior written consent.

13.2 The Company may assign the Agreement or part of it to any person, firm or company.

## **14. Damages**

Save as described in these Terms and Conditions the Company shall not be liable to the Customer for any loss or damage whether direct or indirect and howsoever caused. In any event the Company's liability to the Customer in respect of the non-performance of any of the Company's obligations shall be limited to the price of the Container Room.

## **15. Force Majeure**

The Company shall not be liable to the Customer or deemed to be in breach of these Terms and Conditions because of any delay or failure to perform any of the Company's obligations if the delay or failure was due to any cause beyond the Company's control.

## **16. Insolvency**

If the Customer shall go into liquidation whether compulsory or voluntary (except the purposes of a bona fide reconstruction or amalgamation) or if a petition shall be presented or an order made for an administrator or if a receiver, administrative receiver or manager shall be appointed over any part of the assets or undertaking of the Customer or the Customer being an individual shall become bankrupt or make any arrangement with its creditors, then without limiting its remaining rights the Company shall be entitled to immediately recover from the Customer all sums then due and all losses arising to the Company as a result of such circumstances arising, and shall be entitled to give notice to the Customer to terminate the Agreement pursuant to Clause 9.2.

## **17. Notices**

Any notices to be given shall be in writing and be deemed to be given if left at last known address of the Company or the Customer as the case may be or sent to the same by first class post or email and shall be deemed to have been received two working days after despatch if sent by post or on receipt of a transmission in legible form if by facsimile or on delivery if by hand.

## **18. Waiver**

No failure or delay on the part of the Company to exercise any right or remedy under these Terms shall be construed or operate as a waiver thereof. The rights and remedies provided are cumulative and are not exclusive any rights or remedies provided by law.

## **19. Governing Law**

Any claim or dispute arising out of these Terms shall be governed by the laws of England and Wales and the parties submit to the exclusive jurisdiction of the English courts.