

TERMS AND CONDITIONS OF SALE, UKVER HP 0222

## TERMS &amp; CONDITIONS

A copy of The Company Terms and Conditions must be signed by every Buyer prior to their first order. In instances where it has not been signed, when a Buyer signs a copy of a Proforma invoice, it shall be deemed as a written acceptance of the Terms and Conditions of S2U Design Containers Ltd. A copy is provided once an order is confirmed. Should no comments be noted, the Terms are valid. Should no signature be available every PI (Proforma Invoice) is subject to our terms and conditions as stated on the bottom of every invoice / PI)

**Application of these terms**

These terms shall apply to all Purchase Orders placed with S2U Design Containers Ltd., hereinafter called 'The Company', by any qualifying business customer, hereinafter called 'The Buyer', and where The Buyer is requesting for goods to be exported for import into a country of The Buyer's choice and request, whether this country is the country in which The Buyer resides, or another country.

Each purchase order shall be placed by a legal entity constituting 'The Buyer', whose identity is clear beyond any doubt, from the order placed. As a minimum the identity of the legal entity shall be given by:

- Verifiable Business Registration Number
- Registered address of the entity, matching the Business Registration Number
- Telephone Number
- Email Address

**Ordering procedure**

Furthermore to be confirmed a Purchase Order must contain:

- Delivery Address
- Nominated Shipping Agent
- Requested time of shipping

Upon receipt of the Purchase Order by The Company, The Company shall raise a Proforma Invoice, which shall serve as an Order Confirmation.

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The Company may, on the Proforma Invoice, adjust the Quantities, Prices, Shipping Date or other details pertaining to the order.

The Purchase Order shall be considered agreed by both parties for the content of the Purchase Order, when The Proforma Invoice is signed and submitted back to The Company, by email.

For starting the processing of any order, a deposit equivalent to 30% of the full value of the order must be paid and be received by The Company, unless otherwise agreed in writing.

The expected lead time, indicated by The Company to The Buyer, shall be calculated from the date by which both a Proforma Invoice, signed by The Buyer, and the deposit, are received by The Company.

All orders are shipped according to Incoterms FOB (Free On Board) except where other agreements have been made in writing.

#### **Delivery Dates**

All delivery dates quoted are estimated only and are not binding by The Company. Whilst every endeavor will be made to comply with these dates, The Company shall have no liability whatsoever for any delay in despatch or delivery or for any loss occasioned thereby.

Booking of shipments, under FOB terms using The Buyer's nominated shipping service, shall be accepted by The Buyer not later than 21 days after cargo is ready for shipment, and is documented to be ready with photographic evidence provided to The Buyer by The Company. If not so accepted, The Company will be entitled to charge 0.5% of the cargo/order value per day, exceeding 21 days.

#### **Delivery and Shipping**

For container shipping, The Buyer shall accept if/when the quantity shipped deviates by up to 10% from the ordered quantity, which may happen in case there is not enough space on the container for the full consignment.

In such cases, The Company reserves the right to include the surplus on future Orders/Proforma Invoices/Shipments.

The actual quantity shipped will be evident from the Packing List and Commercial Invoice which shall be deemed to be the truthful content of every shipment unless The Buyer can provide clear and unambiguous evidence to the contrary.

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The Company shall provide the Commercial Invoice, Packing List, Copy of Bill of Lading, AWB (where applicable) and other documents serving - and internationally recognised - as proof of shipment, and/or required for import to The Buyer's country, not later than 7 days after departure of the consignment. It is The Buyer's responsibility to request documents, if any required, in addition to the Packing List, Commercial Invoice, Bill of Lading and Fumigation Certificate, all of which The Company will produce on all orders shipped. Such additional documents, shall be requested by The Buyer in reasonable time before expected departure, for The Company to be able to produce such documents timely.

Receipt of full payment, or proof of full payment, by Bank Transfer Slip, of the balance on each invoice, for which shipping documents have been provided by The Company to The Buyer, is required to be received by The Company, for The Company to authorise release of the consignment invoiced, surrendering it to The Buyer.

Offsetting of any kind is not permitted under any circumstances.

Upon receipt of payment of the full balance settling the invoice, The Company shall process the release with no hesitation and under no circumstances later than 7 days after the invoice is paid in full.

## Payment

Failure to pay in a timely manner will result in the late release of the consignment, and therefore the incurrence of a quay rent and/or demurrage charge. In case of late payment, The Company will under no circumstances be liable for this charge in any way.

If payment is not received in full in accordance with agreed payment terms, The Company reserves the right to retain title to the consignment, until such time the payment is received by The Company in full. All costs of quay rental, demurrage, customs fees and any other documentable costs directly relating to the delay in payment, shall be charged to The Buyer by The Company, increasing the amount payable for The Buyer to be entitled to have the consignment released/surrendered.

The due date for payment by The Buyer shall be of the essence.

## Claims

Claims shall be considered to fall under one of two categories:

- 1) Claims resulting from individual end user experiences, where one or few units have been supplied to many end users. This category of claims falls under a separate agreement between The Company and The Buyer.

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- 2) Claims resulting from manufacturing or material faults and defects, for which The Company accepts responsibility, affecting a whole production batch. This category of claims is covered by these terms and conditions.

If the goods, falling under the second category of claims above, are agreed by The Company to be defective, The Company shall re-supply the goods in question, or the defective part(s) thereof at its discretion, thus completing the consignment to the standard which was expected and agreed when the Purchase Order was placed and confirmed.

The Company undertakes the responsibility, obligation, and retains the right, to fulfil each confirmed order in compliance with the specifications agreed according to the signed Proforma Invoice, and with products which are fit for purpose, and representing the expected commercial value.

The Company may at its discretion agree to cover the costs of shipment of the replacement units or parts, based on the space such units or parts take up in a future shipment.

The units or parts agreed to be replaced shall form part of the next purchase order and be supplied and invoiced FOC.

When the consignment is brought back to the condition, which was expected when the Purchase Order was confirmed, The Company's obligation pertaining to the Purchase order(s) affected shall be considered satisfied and The Company shall be liable to no further costs, relating to the claim in question, including, but not limited to, storage and other logistical costs during the remedy period, loss of business/sales, changes in exchange rates or shipping rates.

Once any claim is validated by The Company, The Company will be automatically authorised by The Buyer to collect and/or inspect all faulty goods, if it so wishes. If The Buyer will not authorise access to, and/or allow the collection and/or inspection of the faulty goods, on The Company's request, then the claim shall be considered withdrawn.

The Company may, at its discretion, decide to first-hand inspect the goods claimed for, collect them or let The Buyer keep them. However, as a minimum for a claim to be processed, The Buyer must supply comprehensive photo evidence of the defects, in a format requested by The Company.

Failing the above such notice of a defective goods issue, the goods shall be deemed to be in accordance with the contract and The Buyer shall be deemed to have accepted the goods.

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The quantity of any consignment of Goods as recorded by The Company on the Packing List upon despatch from the factory shall be conclusive evidence of the quantity received by The Buyer on delivery unless The Buyer can provide conclusive evidence to the contrary.

In the event of a container lost at sea, The Buyer will need to refer to the Terms and Conditions of their Shipping Agent, as all goods are sold under FOB terms.

**Testing**

Product Testing and Testing costs are at the cost of The Buyer unless otherwise agreed in writing.

**Audits and Ethical**

Should The Company not be informed of testing for particular products prior to shipment, The Company will not be responsible for any subsequent loss or charges incurred by the Costumer.

**Third Party Inspection**

Any Audits of any form or shape of The Company's Suppliers or The Company itself must be advised in advance, and costs hereof shall be borne by The Buyer, unless otherwise agreed.

Third Party inspection is at the cost of The Buyer, at any time and any event unless otherwise agreed.

FOC Spare parts in quantities reasonably being needed in relation to the volume of products bought by any buyer, may be requested by The Buyer. Spare parts should be ordered as part of a normal bulk Purchase Order, with clear specification and quantity for each part requested, including a separate SKU per part.

The Company reserves the right to cap the quantity of spare parts supplied FOC. If more spare parts than such a cap are requested by The Buyer, they can be ordered and paid for.

**Spare Parts Policy**

If FOC spare parts are required by The Buyer sooner than the time it takes to receive them as part of a normal bulk Purchase Order, these shall be ordered by The Buyer following the same procedure as a normal Purchase order. However, such orders will be handled on EXW terms, and as such, The Buyer shall arrange collection from The Company's warehouse in the country of origin. The full shipping contract for spare parts shipped separate from bulk purchase orders shall be between the shipping provider and The Buyer and paid by The Buyer.

The Company will, upon request, assist in finding and referring suitable shipping providers for such shipments.

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**Confidentiality**

Both parties shall take reasonable precautions to preserve in strict confidence any confidential or proprietary information obtained by them, their agents, or employees concerning the business, products, equipment, or services of the other party, including without limitation, trade secrets. Such reasonable precautions shall include exercising precautionary measures designed to preserve the secrecy of such information and to prevent disclosure to third parties, except following prior consent of the other party, with such precautions being at least equivalent to those taken by each party with respect to its own confidential information

Title to the Goods included in any shipment shall remain vested in The Company, S2U Design Containers Ltd., until the full amount for the goods, according to the Commercial Invoice, has been paid and received by The Company.

In case full payment has not been received by The Company, on the 14<sup>th</sup> day after a consignment has arrived in the country of The Buyer's request, The Company has the right to sell part of the consignment, or the full consignment, to one or more third parties.

In addition, The Company has the right to retain the deposit paid, as compensation for the cost of disposal – and other - costs incurred as a consequence of the absence of payment.

**Retention of Title**

In addition, The Company shall be released of any sale restrictions relating to competitive clauses, exclusivity agreements, Intellectual property rights or other arrangements that may exist, potentially hindering a swift sale or disposal of the goods.

**Liability**

The release of such sale restrictions, as a consequence of absence of full payment, shall be limited to sale of the specific quantity of goods, affected by absence of payment by The Buyer.

The Company shall incur no liability for direct, indirect or consequential loss, injury or damage to persons or property from any cause whatsoever as a result of the handling of goods not in accordance with any safety instructions, which may be issued from time to time or supplied by The Company with the goods or with any government regulations or codes of practice from time to time in force.

Any liability incurred by The Company for any direct, indirect or consequential loss, injury or damage to persons or property resulting from any negligence, delay, defect or failure in the goods or from any cause whatsoever shall be limited to a sum equal to the charges for the goods or that

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part so affected, unless caused by choice of materials or design not complying with the specifications agreed. In no circumstances shall liability attach to The Company in respect of defect in the goods or any default, resulting from the specification by The Buyer of unsuitable material or design.

The following paragraphs of this clause shall apply in the case of 'Force Majeure' which shall mean:-

- i) any circumstances (including Acts of God) beyond the control of The Company, or
- ii) fire, flood, power failure, reduction of power supplies, mechanical failure or lack or shortage of materials (not being due to the wilful act or wilful default of The Company) or,
- iii) strikes, lock-outs, industrial disputes or action taken by any other person, group of people, firm or company.

In the event of Force Majeure, there shall be no breach of this contract.

**Force Majeure**

However, the duties and obligation of both parties under this contract shall be suspended for so long as the Force Majeure subsists. The delivery date shall be deferred for a period equal to the length of such suspension unless the Force Majeure has resulted in the destruction of any goods to be provided in which case The Company may nominate a new delivery date.

Should any period of suspension last for ninety days or more, The Buyer may by notice in writing to The Company elect to terminate the contract and take delivery of any part of the goods available. The Company may make a proper charge for all goods so provided.

Notwithstanding the above paragraphs, The Company shall be under no liability to The Buyer in the event of The Company's failure, delay or default in carrying out its obligation due in whole or in part to Force Majeure.

**Termination and Remedies**

Termination of any contract/order for whatever causes shall not affect the rights or remedies of either party in respect of any antecedent breach or in respect of any sum of money owing or to become owing by the other.

**Law**

These conditions shall be governed by and construed in accordance with the laws of England.

**Headings**

Headings are inserted for ease of reference alone and shall not affect the meaning or interpretation of these conditions

**On Behalf for The Company**

**On Behalf of The Buyer**



Knud Henrik Pontoppidan  
Director

Dated: 2..November 2021

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