

Abox Storage Solutions Ltd

Terms and Conditions

1. Interpretation

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Collection Location: the Supplier's premises or such other location as may be advised by the Supplier prior to delivery as further defined at clause 4.2.

Commencement Date: has the meaning given in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 12.4.

Contract: the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

Customer: the person or firm who purchases the Goods from the Supplier.

Delivery Date: the date specified for delivery or collection of an Order in accordance with clause 4.3.

Delivery Location: the Customer's premises as set out in the Order in accordance with clause 4.2;

Force Majeure Event: an event or circumstance beyond a party's reasonable control.

Goods: the goods (or any part of them) set out in the estimate as issued by the Supplier to the Customer, as confirmed in the Order.

Goods Specification: any specification for the Goods, including any relevant drawings, that is set out in the estimate as issued by the Supplier to the Customer, as may be amended by the Supplier following a site survey.

Order: the Customer's order for the Goods, as set out in the Customer's purchase order form or the Customer's written acceptance of the Supplier's estimate, as the case may be.

Supplier: Abox Storage Solutions Limited registered in England and Wales with company number 06578747 whose registered office is at Unit 6-7, Phoenix Industrial Estate, Goat Mill Road Dowlais, Merthyr Tydfil, CF48 3TD.

1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (e) A reference to **writing** or **written** includes fax and email.

2. Basis of contract

2.1 The Order constitutes an offer by the Customer to purchase Goods in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 The Customer may not amend or cancel an Order following the Commencement Date unless agreed in writing by the Supplier. In such circumstances the Supplier may amend the price to account for any amendments made.

2.4 Any samples, drawings, particulars of weight and dimensions, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods contained in the Supplier's catalogues or brochures or on the Supplier's website are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.

2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.6 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

2.7 Any estimate given by the Supplier shall not constitute an offer, and is only valid for a period of 30 days from its date of issue.

3. Goods

3.1 The Goods are described in the Goods Specification.

3.2 To the extent that the Goods are to be manufactured in accordance with a specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of such specification. This clause 3.2 shall survive termination of the Contract.

3.3 The Customer shall:

- (a) ensure that the terms of the Order and any information it provides to the Supplier in relation to the Order are complete and accurate;
- (b) co-operate with the Supplier in all matters relating to the Contract;
- (c) provide the Supplier with such information as the Supplier may reasonably require in order to supply the Goods and ensure that such information is complete and accurate in all material respects.

3.4 The Supplier reserves the right to amend the Goods Specification if required at any time before delivery, and the Supplier shall notify the Customer in any such event.

4. Delivery of Goods

4.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the contract number, the type and quantity of the Goods (including the code number of the Goods, where applicable) and special storage instructions (if any).

4.2 In relation to each Order, either:

- (a) The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) on the Delivery Date. Delivery is completed when the Supplier places the Goods at the Customer's disposal at the Delivery Location; or
- (b) The Customer shall collect the Goods from the Supplier's premises at Unit 6-7, Phoenix Industrial Estate, Goat Mill Road Dowlais, Merthyr Tydfil, CF48 3TD or such other location as may be advised by the Supplier prior to delivery (**Collection Location**) on the Delivery Date. Delivery is completed on the completion of loading of the Goods specified in the Order onto the Customer's carrier at the Collection Location.

Whether clause 4.2(a) or clause 4.2(b) applies shall be specified in the Order and confirmed by the Supplier in the Supplier's written acceptance of that Order.

4.3 Following acceptance of the Order from the Supplier in accordance with clause 2.2, the Supplier shall confirm to the Customer the date on which the Goods specified in the Order shall be delivered to the Delivery Location or shall be ready for collection from the Collection Location (as applicable) (**Delivery Date**).

4.4 The Supplier may agree at its discretion to install the Goods at the Delivery Location. Any such agreement shall be confirmed by the Supplier in the Supplier's written acceptance of that Order. Where the Goods are to be installed by the Supplier, the Customer shall give unrestricted access to its premises, the installation location and to any information or materials which may be required to enable the Supplier to undertake such installation.

4.5 When the Goods are installed at the Delivery Location by the Supplier and the Supplier agrees at its discretion to remove the packaging materials from the Delivery Location, the Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense. Where the Goods are not installed by the Supplier or where the Supplier does not agree to remove the packaging materials from the Delivery Location, such packaging materials shall be removed by the Customer at the Customer's cost.

4.6 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. Delays in the delivery of an Order shall not entitle the Customer to refuse to take delivery of the Order; claim damages; or terminate this Contract. The Supplier shall not be liable for any delay in delivery of the Goods, whether such delay is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods, or otherwise.

4.7 If the Customer fails to accept delivery of the Goods on the Delivery Date, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the Delivery Date; and
- (b) the Supplier may charge the Customer a reasonable charge for waiting time for any time spent waiting in excess of the original delivery time until the Customer accepts delivery; and
- (c) the Supplier may store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance). In the event that the Supplier stores the Goods beyond the end of the month that the Goods should have been delivered, the Supplier reserves the right to invoice the Customer in full for the price of the Goods (which shall be paid by the Customer in accordance with clause 8).

4.8 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

<p>5. Acceptance of defective Goods</p> <p>5.1 The Customer may reject any Goods delivered to it that do not comply with clause 6.1, provided that notice of rejection is given to the Supplier within three Business Days of delivery, provided always that none of the events in listed in clause 6.3 apply.</p> <p>5.2 If the Customer fails to give notice of rejection in accordance with clause 5.1, it shall be deemed to have accepted these Goods.</p> <p>5.3 If the Customer rejects Goods under clause 5.1 then the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full if:</p> <p style="margin-left: 40px;">(a) the Supplier is given a reasonable opportunity of examining such Goods; and</p> <p style="margin-left: 40px;">(b) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost.</p> <p>6. Quality of Goods</p> <p>6.1 The Supplier warrants that on delivery, and for a period of 5 years from the date of delivery (warranty period), the Goods shall:</p> <p style="margin-left: 40px;">(a) conform in all material respects with the Goods Specification; and</p> <p style="margin-left: 40px;">(b) be free from material defects in design, material and workmanship.</p> <p>6.2 Subject to clause 6.3, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full if:</p> <p style="margin-left: 40px;">(a) the Customer gives notice in writing during the warranty period within 14 days of discovery that some or all of the Goods do not comply with the warranty set out in clause 6.1;</p> <p style="margin-left: 40px;">(b) the Supplier is given a reasonable opportunity of examining such Goods; and</p> <p style="margin-left: 40px;">(c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost or shall make the Goods available to the Supplier for collection by the Supplier.</p> <p>6.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 6.1 if:</p> <p style="margin-left: 40px;">(a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 6.2;</p> <p style="margin-left: 40px;">(b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;</p> <p style="margin-left: 40px;">(c) the defect arises as a result of the Supplier following any drawing, design, information or specification supplied by the Customer;</p> <p style="margin-left: 40px;">(d) the Customer alters or repairs such Goods without the written consent of the Supplier;</p> <p style="margin-left: 40px;">(e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or</p> <p style="margin-left: 40px;">(f) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.</p> <p>6.4 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.</p> <p>6.5 Except as provided in this clause 6, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 6.1.</p> <p>6.6 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.</p> <p>7. Title and risk</p> <p>7.1 The risk in the Goods shall pass to the Customer on completion of delivery (as specified in accordance with clause 4.2).</p> <p>7.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.</p> <p>7.3 Until title to the Goods has passed to the Customer, the Customer shall:</p> <p style="margin-left: 40px;">(a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;</p> <p style="margin-left: 40px;">(b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;</p> <p style="margin-left: 40px;">(c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;</p> <p style="margin-left: 40px;">(d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 9.1; and</p> <p style="margin-left: 40px;">(e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.</p>	<p>7.4 Subject to clause 7.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:</p> <p style="margin-left: 40px;">(a) it does so as principal and not as the Supplier's agent; and</p> <p style="margin-left: 40px;">(b) title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.</p> <p>7.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 9.1, then, without limiting any other right or remedy the Supplier may have:</p> <p style="margin-left: 40px;">(a) the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and</p> <p style="margin-left: 40px;">(b) the Supplier may at any time:</p> <p style="margin-left: 80px;">(i) require the Customer to deliver up all Goods in its possession; and</p> <p style="margin-left: 80px;">(ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.</p> <p>8. Price and payment</p> <p>8.1 The price of the Goods shall be the price set out in the estimate as issued by the Supplier to the Customer, as confirmed in the Order.</p> <p>8.2 The Supplier may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:</p> <p style="margin-left: 40px;">(a) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);</p> <p style="margin-left: 40px;">(b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification;</p> <p style="margin-left: 40px;">(c) any request by the Customer for additional or special packaging; or</p> <p style="margin-left: 40px;">(d) any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.</p> <p>8.3 The price of the Goods:</p> <p style="margin-left: 40px;">(a) excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and</p> <p style="margin-left: 40px;">(b) excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be set out in the estimate as issued by the Supplier to the Customer.</p> <p>8.4 The Supplier may invoice the Customer for the Goods and the costs set out at clause 8.3 on or at any time after the completion of delivery.</p> <p>8.5 The Customer shall pay the invoice in full and in cleared funds by the end of the month following the month in which the invoice is received. Payment shall be made to the bank account nominated in writing by the Supplier. Time for payment is of the essence.</p> <p>8.6 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 8% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.</p> <p>8.7 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.</p> <p>9. Termination</p> <p>9.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:</p> <p style="margin-left: 40px;">(a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;</p> <p style="margin-left: 40px;">(b) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;</p> <p style="margin-left: 40px;">(c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or</p> <p style="margin-left: 40px;">(d) the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.</p> <p>9.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 9.1, or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.</p>
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9.3	Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.	12.5	Waiver. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
9.4	On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest.	12.6	Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
9.5	Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.	12.7	Notices.
9.6	Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.	(a)	Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or fax or email.
10.	Limitation of liability	(b)	A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.7(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.
10.1	Nothing in these Conditions shall limit or exclude the Supplier's liability for:	(c)	The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
(a)	death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);	12.8	Third party rights. No one other than a party to this Contract shall have any right to enforce any of its terms.
(b)	fraud or fraudulent misrepresentation;	12.9	Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
(c)	breach of the terms implied by section 12 of the Sale of Goods Act 1979; or	12.10	Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.
(d)	any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.		
10.2	Subject to clause 10.1:		
(a)	the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of sales or business, loss of agreements or contracts, loss of or damage to goodwill or any indirect or consequential loss arising under or in connection with the Contract; and		
(b)	the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.		
11.	Force majeure		
	Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for 12 weeks, the party not affected may terminate this Contract by giving 14 days written notice to the affected party.		
12.	General		
12.1	Assignment and other dealings.		
(a)	The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.		
(b)	The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.		
12.2	Confidentiality.		
(a)	Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2(a).		
(b)	Each party may disclose the other party's confidential information:		
(i)	to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 12.2; and		
(ii)	as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.		
(c)	No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.		
12.3	Entire agreement.		
(a)	This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.		
(b)	Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.		
12.4	Variation. No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).		