

# Guardpack Ltd

SPECIALIST WIPE & SACHET MANUFACTURER

The Wipe House, Unit 5 Bilton Road Chelmsford Essex CM1 2UP  
Tel: +44(0)1245 505807 Fax: +44(0)1245 358786 Email: [jeremy@guardpack.co.uk](mailto:jeremy@guardpack.co.uk) Web: [www.guardpack.co.uk](http://www.guardpack.co.uk)

## 1 SELLER'S CONDITIONS OF SALE TO APPLY

These conditions of sale (the "Conditions") shall apply to and govern any contract between Guardpack Ltd ("the Seller") and any person purchasing sachets or flow pack wipes (generic or printed), or any form of goods (the "Goods") from the Seller (the "Buyer"), (the "Contract"). No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract. These Conditions shall apply at the Seller's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed on behalf of the Seller.

## 2. PRICES

All prices are subject to market fluctuations and all quotation are given on the basis that the Goods may be invoiced at the Seller's prices current at the date of despatch. The price paid for the Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.

## 3 DELIVERY

(a) unless otherwise agreed in writing and subject to condition 6 (a) the Buyer shall be bound to accept Goods ordered by it on being notified by the Seller that they are ready for delivery or on the case of printed materials) that the goods are ready for production.

(b) Where the Seller agrees to hold Goods for the Buyer such Goods shall be treated as having been delivered for the purchase of these Conditions from the date of the Seller's acceptance of the Buyer's request and from such date the Seller shall be entitled to Invoice the Buyer for such Goods at the Seller's discretion.

(c) If the Buyer fails to take delivery at the time required by condition 3(a) the Seller shall be entitled without prejudice to any other rights it may have, either to treat the Contract as at an end to re-sell Goods, or to Invoice the Goods whereupon payment in full shall become due forthwith and in either case to charge at rates giving an economic return for the handling and storage of Goods from the invoice date to the eventual date of delivery to the Buyer or disposal elsewhere as the case may be and the Buyer shall be liable to pay any premiums in respect of the insurance of such Goods from the date on which it is notified that the Goods are ready for delivery.

(d) If Goods are contracted to be delivered by instalments, late delivery of one instalment shall not entitle the Buyer to reject any other instalment under the same Contract.

(e) (i) Any dates specified by the Seller for delivery of the Goods are intended to be an estimate only and time for delivery shall not be made of the essence by notice. The Seller reserves the right to deliver goods earlier than expected should production advance by necessity.

(ii) Subject to the other provisions of these Conditions the Seller shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss) costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery) of the Goods (even if caused by the Seller's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract unless the delay has been for a continuous period of 90 days.

## 4 QUANTITY

The Seller cannot guarantee exact quantities in respect of any Goods supplied and shall be deemed to have fulfilled its obligation under the Contract by delivery or manufacture of a quantity plus or minus ten per cent of the quantity specified in the Contract and the Buyer shall pay the Contract rate for the actual quantity delivered.

## 5 RETENTION OF TITLE

The Goods are at the risk of the Buyer from the time of Delivery. Ownership of the Goods shall not pass to the Buyer until the Seller has received in full (in cash or cleared funds) all sums due to it in respect of:

- (a) The Goods; and
- (b) All other sums which are or which become due to the Seller from the Buyer on any account.

Until ownership of the Goods has passed to the Buyer, the Buyer shall:

- (a) Hold the Goods on a fiduciary basis as the Seller's bailee;
- (b) Store the Goods (at no cost to the Seller) separately from all other Goods of the Buyer or any third party in such a way that they remain readily identifiable as the Seller's property;
- (c) Not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
- (d) Maintain the Goods in a satisfactory condition and keep them insured on the Seller's behalf for their full price against all to the reasonable satisfaction of the Seller. On request the Buyer shall produce the policy of insurance to the Seller.

The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:

- (a) Any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
- (b) Any such sale shall be a sale of the Seller's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.

# Guardpack Ltd

SPECIALIST WIPE & SACHET MANUFACTURER

The Wipe House, Unit 5 Bilton Road Chelmsford Essex CM1 2UP  
Tel: +44(0)1245 505807 Fax: +44(0)1245 358786 Email: jeremy@guardpack.co.uk Web: www.guardpack.co.uk

The Buyer's right to possession of the Goods shall terminate immediately if:

- (i) the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed to or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or
- (ii) the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against his/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Seller and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or
- (liii) the Buyer encumbers or in any way charges any of the goods.

The Buyer grants the Seller, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

On termination of the Contract, howsoever caused, the Seller's (but not the Buyer's) rights contained in this condition 5 shall remain in effect.

Where the Seller is unable to determine whether the Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Seller to the Buyer in the order in which they were invoiced to the Buyer.

## 6. QUALITY

The buyer has the right to inspect print and manufacturing production to insure the quality is as agreed between the buyer and the seller.

In any case where it is established to the satisfaction of the Seller that when delivered the Goods contained some defect in quality or did not correspond with relevant samples or description, quality control sheet and corresponding artwork and, as a result, any Goods supplied were not fit for the Buyer's purpose (the "Defective Goods"), and the Buyer advises the Seller of the defect within 5 days of receiving the delivery for the Defective Goods, the Seller will:

- (a) Discuss an agreement so that both parties at a minimum loss.
- (b) Replace the Defective Goods without further charge; or

If the Buyer fails to inform the Seller of the defect within 5 days of receiving the Defective Goods the Buyer shall no longer be entitled to the remedies described at 6a and 6b above.

## 7. LIMITATION OF LIABILITY

The following provisions set out the entire financial liability of the Seller (including any liability for the acts or omission of its employees, agents and subcontractors) to the Buyer in respect of:

- (a) Any breach of this Contract;
- (b) Any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
- (C) Any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

Nothing in these Conditions excludes or limits the liability of the Seller.

- (a) For death or personal injury caused by the Seller's negligence; or
- (b) Under section 2(3), Consumer Protection Act 1987; or
- (C) For any matter which it would be illegal for the Seller to exclude or attempt to include its liability; or
- (d) For fraud or fraudulent misrepresentation.

The Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance of the Contract shall be limited to the Contract price.

## 8. PAYMENT

# Guardpack Ltd

SPECIALIST WIPE & SACHET MANUFACTURER

The Wipe House, Unit 5 Bilton Road Chelmsford Essex CM1 2UP

Tel: +44(0)1245 505807 Fax: +44(0)1245 358786 Email: [jeremy@guardpack.co.uk](mailto:jeremy@guardpack.co.uk) Web: [www.guardpack.co.uk](http://www.guardpack.co.uk)

Unless otherwise agreed between the Seller and the Buyer in writing Goods must be paid for no later than the last working day of the month following the date of invoice. The Seller reserves the right to charge interest at the rate of 4% per annum over the then current base rate published by HSBC.

Time for payment shall be of the essence. No payment shall be deemed to have been received until the Seller has received cleared funds. All payments payable to the Seller under the Contract shall become due immediately on its termination despite any other provision.

The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

The seller may at any time or times, without notice to the Buyer, set off any liability of the Seller to the Buyer against any liability of the to the Seller.

## 9. SELLER'S RIGHT OF RESCISSION

The Seller shall have the option (without prejudice to any of its other rights against the Buyer) by notice in writing to the Buyer to rescind any contract between the Seller and the Buyer or to suspend delivery on the occurrence of any of the events described in clause 5(i), (ii) and (iii) of these Conditions.

## 10. FOREBEARANCE BY THE SELLER

No forbearance or indulgence by the Seller shown or granted to a Buyer whether in respect of these Conditions or otherwise shall in any way affect or prejudice the rights of the Seller against the Buyer or be taken as a waiver of any of these Conditions.

## 11. FORCE MAJEURE

The Seller shall not be liable for failing to perform the Contract whether wholly or in part failure is caused wholly or partly by any circumstance or circumstances outside the Seller's control.

## 12. LAW

Each Contract incorporating these Conditions and any dispute or claim arising out of in connection with it or its subject matter or formation (Including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

## 13. ASSIGNMENT

The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.

The Seller may assign the Contract or any part of it to any person, firm or company.

## 14. RIGHTS OF THIRD PARTIES

The parties to the Contract do not intend that any harm of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

## 15. SEVERABILITY

If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provision of the Contract and the remainder of such provision shall continue in full force and effect.