

**1. DEFINITIONS AND INTERPRETATION**

1.1 The following definitions and rules of interpretation apply to the Contract:

- Affiliate** in relation to Lightweight Containers, any entity that directly or indirectly controls, is controlled by, or is under common control with Lightweight Containers from time to time;
- Business Day** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;
- Conditions** the terms and conditions set out in this document as amended from time to time in accordance with clause 18.7;
- Contract** the contract between Lightweight Containers and the Customer for the sale and purchase of the Goods in accordance with these Conditions;
- Currency Fluctuation** a change of 5% or more in the daily spot exchange rate of Euro against pounds sterling published by the Bank of England between the date of the Order and the Order Confirmation;
- Customer** the person or firm who purchases the Goods from Lightweight Containers;
- Data Protection Legislation** means:

  - (a) if and to the extent the UK GDPR (as defined in the Data Protection Act 2018) applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data;
  - (b) if and to the extent the General Data Protection Regulation ((EU) 2016/679) (EU GDPR) applies, the law of the European Union or any member state of the European Union to which Lightweight Containers is subject, which relates to the protection of personal data;

<b>Delivery</b>	has the meaning given in clause 5.4 (as appropriate for the type of Order);
<b>Email Order</b>	a Customer's Order for the Goods placed by sending an email to "admin@lightweight-containers" (or such other email address as notified by Lightweight Containers to the Customer from time to time) setting out the type and quantity of Goods required (and any UPC/GTINs given to the Goods by Lightweight Containers);
<b>EXW</b>	means the delivery term "Ex Works" as defined in the Incoterms;
<b>FCA</b>	means the delivery term "Free Carrier" as defined in the Incoterms;
<b>Force Majeure Event</b>	has the meaning given in clause 15.1;
<b>Goods</b>	the goods (or any part of them) set out in the Order;
<b>Incoterms</b>	the Incoterms 2020 as they may be updated from time to time;
<b>KeyKegs and UniKegs</b>	single use pressurised kegs produced and sold by Lightweight Containers;
<b>Liabilities</b>	all claims or proceedings made or brought or threatened against Lightweight Containers or any of its Affiliates by any person and all losses, liabilities or costs (on a full indemnity basis), damages and expenses against Lightweight Containers or any of its Affiliates does or will incur or suffer as a result of defending or settling any such actual or threatened claims or proceedings;
<b>Lightweight Containers</b>	Lightweight Containers UK Limited registered number 11011325 whose registered office is c/o Birketts LLP, Kingfisher House, 1 Gilders Way, Norwich NR3 1UB;
<b>Lightweight Containers' Premises</b>	Lightweight Containers, Unit 3, Admiralty Way, Seaham, England SR7 7DN or such other address as notified by Lightweight Containers to the Customer from time to time;

<b>Losses</b>	all losses (including but not limited to all direct, indirect and consequential losses), liabilities, costs, damages and expenses that Lightweight Containers or any of its Affiliates does or will incur or suffer;
<b>Netstore</b>	<a href="https://netstore2.keykegorder.com">netstore2.keykegorder.com</a> or such other URL as notified by Lightweight Containers to the Customer from time to time;
<b>Netstore Order</b>	an order for Goods placed by the Customer using Netstore;
<b>Offline Orders</b>	means the Customer's Order for the Goods placed using: <ul style="list-style-type: none"><li>(c) an Order Form;</li><li>(d) a Telephone Order; or</li><li>(e) an Email Order;</li></ul>
<b>Order</b>	means an Offline Order, a Webshop Order or a Netstore Order (as the context may require);
<b>Order Confirmation</b>	means in respect of Orders, Lightweight Containers' email acceptance of the Order;
<b>Order Form</b>	a Customer's Order for the Goods placed by sending a completed copy of Lightweight Containers' standard order form (as updated from time to time) to Lightweight Containers;
<b>Telephone Order</b>	a Customer's Order for the Goods placed by telephone using <a href="tel:+31223760760">+ 31 223 760 760</a> (or such other telephone number as notified by Lightweight Containers to the Customer from time to time) setting out the type and quantity of Goods required (and any UPC/GTINs given to the Goods by Lightweight Containers);
<b>Webshop Order</b>	an order for Goods placed by the Customer at the Website or such other website used by Lightweight Containers for the sale of the Goods from time to time;
<b>Website</b>	means Lightweight Containers' website at <a href="https://www.keykegshop.eu">https://www.keykegshop.eu</a> (or such other website

URL as notified by Lightweight Containers to the Customer from time to time) used for the sale of the Goods and as may be updated from time to time.

- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 A reference to a party includes its personal representatives, successors and permitted assigns.
- 1.4 A reference to a statute or statutory provision is a reference to it as amended or re-enacted and a reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- 1.5 Any words following the terms **including, include, in particular** 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.
- 1.6 A reference to **writing** or **written** includes email but not fax.
- 1.7 In the Contract, **termination** shall mean **termination or expiry** as appropriate.

## 2. **BUSINESS CUSTOMERS ONLY**

- 2.1 The Customer warrants and represents that in placing an Order it does so as a business customer (that is, either wholly or mainly in connection with a business, trade, craft or profession) and not as a consumer.
- 2.2 Further, the Customer acknowledges and agrees that consumer regulation (including the Consumer Rights Act 2015, Consumer Protection Act 1987 and the Consumer Contract (Information, Cancellation and Additional Charges) Regulations 2013) shall not apply to the Contract and that the Customer shall not be able to rely on any right or remedy as may be contained in such consumer regulation.

## 3. **BASIS OF CONTRACT**

- 3.1 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 law, trade custom, practice or course of dealing.
- 3.2 When placing a **Webshop Order**:
  - 3.2.1 the Customer is to follow the onscreen prompts to place a Webshop Order;

- 3.2.2 each Webshop Order is an offer by the Customer to purchase the Goods subject to these Conditions; and
- 3.2.3 Lightweight Containers' order process allows the Customer to check and amend any errors before submitting its Webshop Order.
- 3.3 When placing a **Netstore Order**:
  - 3.3.1 the Customer will log in (using its pre-assigned log in details) to its dedicated area of the Netstore;
  - 3.3.2 the Customer will follow the onscreen prompts to place a Netstore Order;
  - 3.3.3 each Netstore Order is an offer by the Customer to purchase the Goods subject to these Conditions;
  - 3.3.4 the order process on Netstore allows the Customer to check and amend any errors before submitting its Netstore Order; and
  - 3.3.5 the Customer will be required to meet the minimum purchase obligations for each of the KeyKegs/UniKegs as specified on the Netstore from time to time.
- 3.4 When placing an **Offline Order**, the Offline Order constitutes an offer by the Customer to purchase the Goods subject to these Conditions.
- 3.5 In respect of **Telephone Orders**, the Customer must confirm the Telephone Order in writing by sending the details to [admin@lightweighth-containers.com](mailto:admin@lightweighth-containers.com) (or such other email address as notified by Lightweight Containers to the Customer from time to time) within two Business Days of the telephone call.
- 3.6 In respect of all Orders, the Customer:
  - 3.6.1 must check its Order before submitting it to Lightweight Containers; and
  - 3.6.2 is responsible for ensuring that the terms of each Order is complete and accurate.
- 3.7 The Order shall only be deemed to be accepted when Lightweight Containers issues an Order Confirmation, at which point the Contract shall come into existence.
- 3.8 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.

- 3.9 Any samples, drawings, descriptive matter or advertising produced by Lightweight Containers illustrations contained in Lightweight Containers' catalogues, brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- 3.10 Any quotation for the Goods given by Lightweight Containers shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days from its date of issue.
- 3.11 If Lightweight Containers are unable to supply the Customer with the Goods for any reason, Lightweight Containers will inform the Customer of this by email and Lightweight Containers will not process the Order. If the Customer has already paid for the Goods, Lightweight Containers will refund the Customer the full amount including any delivery costs charged as soon as possible.
- 3.12 Unfortunately, Lightweight Containers does not deliver to addresses outside the UK. If the Customer wishes to place an order for Goods outside of the UK the Customer should contact Lightweight Containers [here](#).

## 4. GOODS

- 4.1 The images of the Goods on the Website are for illustrative purposes only. Although Lightweight Containers has made every effort to display the colours accurately, Lightweight Containers does not guarantee that the Customer's computer display of the colours accurately reflect the colour of the Goods. The colour of the Goods may vary slightly from those images.
- 4.2 The packaging of the Goods may vary from that shown on images on the Website.
- 4.3 Each type of KeyKeg and UniKeg is as described on Lightweight Containers' Website.
- 4.4 Lightweight Containers reserves the right to amend any specification and/or description given on the Website for the Goods if required by any applicable statutory or regulatory requirements.
- 4.5 The Customer must not remove any trademark or other logo placed on the Goods without Lightweight Containers' prior written consent.

## 5. DELIVERY

- 5.1 In the case of **Offline Orders**, Lightweight Containers shall deliver the Goods in accordance with the method set out in the Order Confirmation which will either be EXW or by FCA (delivery to Lightweight Containers' Premises) (unless otherwise agreed between the parties in writing).

- 5.2 In the case of **Netstore Orders**, Lightweight Containers shall deliver the Goods in accordance with the method set out in the Order Confirmation which will either be EXW or by third party carrier (unless otherwise agreed between the parties in writing).
- 5.3 In the case of **Webshop Orders**, delivery will be by third party carrier (unless otherwise agreed between the parties in writing).
- 5.4 Delivery is completed on the completion of:
- 5.4.1 where delivery is EXW, the Customer (or a third party appointed to act on its behalf) loading the Goods at Lightweight Containers' Premises onto the Customer's transport;
  - 5.4.2 where delivery is FCA (delivery to Lightweight Containers' Premises), Lightweight Containers loading the Goods onto the Customer's or appointed third party's transport at Lightweight Containers' Premises; and
  - 5.4.3 where delivery is by third party carrier, when the Goods are loaded onto the third party carrier's transport by Lightweight Containers,
- (in each case, **Delivery**).
- 5.5 Any dates quoted for delivery (in the Order Confirmation or otherwise) are approximate only, and the time of delivery is not of the essence. Lightweight Containers shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Lightweight Containers with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.6 If Lightweight Containers fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. Lightweight Containers shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide Lightweight Containers with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.7 If the Customer fails to:
- 5.7.1 take delivery of the Goods within three Business Days of Lightweight Containers notifying the Customer that the Goods are ready (in the case of delivery by EXW or FCA (delivery to Lightweight Containers' Premises)); or

5.7.2 accept delivery on the date of attempted delivery of the Goods to the Customer (in the case of delivery by third party carrier),

then, except where such failure or delay is caused by a Force Majeure Event or Lightweight Containers' failure to comply with its obligations under the Contract delivery of the Goods shall be deemed to have been completed on the date and time set out in clause 5.8.

5.8 The date and time for the purposes of clause 5.7 shall be:

5.8.1 at 09:00 GMT/BST (as appropriate) (in the case of delivery by EXW or FCA (delivery to Lightweight Containers' Premises)) on the third Business Day after the day on which Lightweight Containers notified the Customer that the Goods were ready; and

5.8.2 on the date and at the time the third party courier attempted to deliver the Goods to the Customer (in the case of delivery by third party courier).

5.9 If and to the extent that the Customer fails to take/accept delivery of the Goods, Lightweight Containers (or any third party instructed by it to do so) shall store the Goods until delivery takes place and charge the Customer for all related costs and expenses (including insurance).

5.10 If:

5.10.1 five Business Days after the day on which Lightweight Containers notified the Customer that the Goods were ready (in the case of delivery by EXW or FCA (delivery to Lightweight Containers' Premises)); or

5.10.2 the day the third party courier attempted delivery (in the case of delivery by third party carrier),

the Customer has not taken or accepted actual delivery of them (as the context requires), Lightweight Containers may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, charge the Customer for any shortfall below the price of the Goods.

5.11 Lightweight Containers may deliver the Goods by instalments, which except where payment has been made in advance for Webshop Orders or in accordance with clause 10.2, shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.



## 6. QUALITY

6.1 It is acknowledged and agreed that the KeyKegs and UniKegs are single use and that the Customer must fill:

6.1.1 the KeyKegs within 18 months of the date of Delivery; and

6.1.2 the UniKegs within nine months of the date of Delivery,

**(Fill By Date).**

6.2 Subject to the Customer filling the KeyKegs and/or the UniKegs by the Fill By Date in each case, Lightweight Containers warrants that on Delivery and for a period of 36 months in the case of KeyKegs and 18 months in the case of UniKegs (**Warranty Period**), the KeyKegs and the UniKegs shall conform in all material respects with their descriptions given on the Website.

6.3 Subject to clause 6.4, if:

6.3.1 the Customer gives notice in writing to Lightweight Containers during the Warranty Period within a reasonable time of discovery that some or all of the KeyKegs and/or UniKegs do not comply with the warranty set out in clause 6.1;

6.3.2 Lightweight Containers is given a reasonable opportunity of examining such KeyKegs and/or UniKegs; and

6.3.3 the Customer (if asked to do so by Lightweight Containers) returns such KeyKegs and/or UniKegs to Lightweight Containers' Premises at the Customer's cost,

Lightweight Containers shall, at its option, repair or replace the defective KeyKegs and/or UniKegs, or refund the price of the defective KeyKegs and/or UniKegs in full.

6.4 Lightweight Containers shall not be liable for the KeyKegs' and/or UniKegs' failure to comply with the warranty set out in clause 6.1 in any of the following events:

6.4.1 the KeyKegs and/or the UniKegs have not been filled by the Fill By Date;

6.4.2 the Customer makes any further use of such KeyKegs and/or UniKegs after giving notice in accordance with clause 6.3;

6.4.3 the defect arises because the Customer failed to follow Lightweight Containers' oral or written instructions as to the storage, commissioning, installation, use and maintenance of the KeyKegs and/or UniKegs or (if there are none) good trade practice regarding the same;

- 6.4.4 the Customer alters or repairs such KeyKegs and/or UniKegs without the written consent of Lightweight Containers;
  - 6.4.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
  - 6.4.6 the KeyKegs and/or UniKegs differ from their description on the Website as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 6.5 In respect of the Goods more generally, the Goods shall:
- 6.5.1 be free from material defects in design, material and workmanship; and
  - 6.5.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).
- 6.6 Except as provided in this clause 6, Lightweight Containers shall have no liability to the Customer in respect of:
- 6.6.1 the KeyKeg's and/or UniKeg's failure to comply with the warranty set out in clause 6.1;
  - 6.6.2 the Goods failure to comply with clause 6.5; and/or
  - 6.6.3 loss and/or damage to the contents of the KeyKegs and/or UniKegs after they have been filled by the Customer.
- 6.7 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.
- 6.8 These Conditions shall apply to any repaired or replacement KeyKegs and/or UniKegs supplied by Lightweight Containers.
- 7. TITLE AND RISK**
- 7.1 The risk in the Goods shall pass to the Customer on completion of Delivery.
- 7.2 Title to the Goods shall not pass to the Customer until the earlier of:
- 7.2.1 Lightweight Containers receiving payment in full (in cash or cleared funds) for the Goods and any other goods that Lightweight Containers 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; or

- 7.2.2 the Customer reselling the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 7.4.
- 7.3 Until title to the Goods has passed to the Customer, the Customer shall:
  - 7.3.1 store the Goods (in such manner as Lightweight Containers may from time to time direct) separately from all other goods held by the Customer so that they remain readily identifiable as Lightweight Containers' property;
  - 7.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - 7.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - 7.3.4 notify Lightweight Containers immediately if it becomes subject to any of the events listed in clause 13.1.3 to clause 13.1.8 (inclusive);
  - 7.3.5 give Lightweight Containers such information as Lightweight Containers may reasonably require from time to time relating to:
    - 7.3.5.1 the Goods; and
    - 7.3.5.2 the ongoing financial position of the Customer.
- 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 Lightweight Containers receives payment for the Goods. However, if the Customer resells the Goods before that time:
  - 7.4.1 it does so as principal and not as Lightweight Containers' agent; and
  - 7.4.2 title to the Goods shall pass from Lightweight Containers to the Customer immediately before the time at which resale by the Customer occurs.
- 7.5 At any time before title to the Goods passes to the Customer, Lightweight Containers may:
  - 7.5.1 by notice in writing, terminate the Customer's right under clause 7.4 to resell the Goods or use them in the ordinary course of its business; and
  - 7.5.2 require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and 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.

## 8. PRODUCT RECALL

8.1 Lightweight Containers may issue a notice to recall or withdraw the Goods from the market (**Recall Notice**) if:

8.1.1 required to do so by law or at the request of any governmental or regulatory authority;

8.1.2 the supply or use of the Goods infringes, or may infringe, a third party's intellectual property rights;

8.1.3 the Goods are, or may be, unsafe or otherwise may pose a risk to human health;

8.1.4 the Goods are, may be, or may become illegal or non-compliant with any law, regulation or government agency or industry standard;

8.1.5 a defect in the Goods may cause harm to Lightweight Containers' reputation or brand; or

8.1.6 there is any other reasonable ground to do so.

8.2 The Customer must, at its own cost:

8.2.1 comply with any Recall Notice; and

8.2.2 give such assistance as Lightweight Containers reasonably requires to recall or withdraw the Goods from the market, and comply with Lightweight Containers' instructions about the process of implementing that recall or withdrawal.

## 9. PRICE

9.1 The price of the Goods shall:

9.1.1 in respect of **Webshop Orders**, be the price as set out on the Website;

9.1.2 in respect of **Netstore Orders**, be the price as set out on the Netstore;

9.1.3 in respect of **Offline Orders**, shall be the price as set out in Lightweight Containers' then current price list or as otherwise agreed between the parties in writing and confirmed in the Order Confirmation.

9.2 For all Orders, the price of the Goods:

9.2.1 excludes amounts in respect of value added tax (**VAT**) (unless stated otherwise in the Order Confirmation), which the Customer shall

additionally be liable to pay to Lightweight Containers at the prevailing rate; and

9.2.2 (unless otherwise agreed in writing between the parties) excludes the costs and charges of packaging, insurance and transport of the Goods, which (if applicable) shall be invoiced to the Customer or, in the case of Webshop Orders or Netstore Orders, will be payable at the time of order (unless stated otherwise in the Order Confirmation).

9.3 For all Orders the Customer shall be responsible for the payment of all import charges, levies, taxes and duties as may be payable on the Goods. Lightweight Containers shall have no liability, whatsoever, to the Customer in this regard.

9.4 All amounts payable in connection with the Contract shall be in pounds sterling.

9.5 If there is a Currency Fluctuation, when converting sterling to Euro in relation to any payment due from the Customer, Lightweight Containers reserves the right to increase the total price of the Order to take the Currency Fluctuation into account.

9.6 If a Currency Fluctuation occurs:

9.6.1 any price increase will be set out in the Order Confirmation; and

9.6.2 and payment has been made in advance by the Customer, Lightweight Containers will raise an invoice for an amount to take the Currency Fluctuation into account which shall be payable by the Customer immediately on receipt of the invoice.

## 10. PAYMENT

10.1 In respect of **Webshop Orders**:

10.1.1 the Customer shall pay for the Goods at the time of placing its Order on the Website and payment shall be by those debit cards or credit cards as identified on the Website;

10.1.2 payment for the Goods (including all applicable costs associated with packaging, insurance and transport of the Goods) is in advance;

10.1.3 Lightweight Containers will charge the Customer's debit card or credit card at the time of the Customer placing its Webshop Order; and

10.1.4 if at the point of the Webshop Order, Lightweight Containers cannot charge the Customer's chosen method of payment, Lightweight Containers will not dispatch the Goods and will contact the Customer for further instructions.

- 10.2 In respect of **Netstore Orders** and **Offline Orders**, Lightweight Containers reserves the right to request payment in advance for the Goods (including all applicable costs associated with packaging, insurance and transport of the Goods) and if so required:
- 10.2.1 Lightweight Containers will inform the Customer of this in writing as soon as reasonably practicable after the Netstore Order or Offline Order (as the context requires);
  - 10.2.2 Lightweight Containers shall raise an invoice for the total price of the Order (including all applicable costs associated with packaging, insurance and transport of the Goods) following the Netstore Order or Offline Order (as the context requires);
  - 10.2.3 the Customer shall pay such invoice within 30 days of the date of the invoice in full and in cleared funds to a bank account nominated in writing by Lightweight Containers; and
  - 10.2.4 after such payment, Lightweight Containers will issue an Order Confirmation and deliver the Goods in accordance with these Conditions.
- 10.3 If payment is not required upfront in accordance with clause 10.2 in respect of **Netstore Orders** and **Offline Orders**:
- 10.3.1 Lightweight Containers may invoice the Customer for the Goods on or at any time after the completion of Delivery; and
  - 10.3.2 the Customer shall pay such invoice within 30 days of the date of the invoice in full and in cleared funds to a bank account nominated in writing by Lightweight Containers.
- 10.4 In respect of all Orders, time for payment shall be of the essence of the Contract.
- 10.5 If the Customer fails to make a payment due to Lightweight Containers under the Contract by the due date, then, without limiting Lightweight Containers' remedies under clause 13, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 10.5 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 10.6 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## 11. INDEMNITY

11.1 The Customer will indemnify Lightweight Containers against, and covenant to pay Lightweight Containers an amount equal to all Losses and Liabilities in each case arising out of or in connection with:

11.1.1 the Contract; and/or

11.1.2 the Customer's use of the Goods.

11.2 Lightweight Containers will not be under any obligation to mitigate, or procure the mitigation of, any of the losses, liabilities, costs, damages and expenses to which the indemnity in clause 11.1 applies.

## 12. LIMITATION OF LIABILITY

12.1 Nothing in the Contract shall limit or exclude Lightweight Containers' liability for:

12.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

12.1.2 fraud or fraudulent misrepresentation; or

12.1.3 any matter in respect of which it would be unlawful for Lightweight Containers to exclude or restrict liability.

12.2 Subject to clause 12.1, Lightweight Containers shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

12.2.1 loss of profits;

12.2.2 loss of sales or business;

12.2.3 loss of agreements or contracts;

12.2.4 loss of anticipated savings;

12.2.5 loss of use or corruption of software, data or information;

12.2.6 loss of damage to goodwill;

12.2.7 loss of opportunity; and/or

12.2.8 any indirect or consequential loss.

- 12.3 Subject to clauses 12.1 and 12.2, Lightweight Containers' total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to 100% of the price paid for the Goods under the Contract as set out in the Order Confirmation.
- 12.4 Except as expressly stated in these Conditions, Lightweight Containers does not give any representation, warranties or undertakings in relation to the Goods. Any representation, condition or warranty which might be implied or incorporated into these the Contract by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, Lightweight Containers will not be responsible for ensuring that the Goods are suitable for the Customer's purposes.
- 12.5 For the avoidance of doubt, Lightweight Containers shall not be liable in relation to any loss or damage that may result from the use of the Goods other than to the extent set out in these Conditions.

## 13. TERMINATION

- 13.1 Without limiting any of its other rights, Lightweight Containers may suspend the supply or delivery of the Goods to the Customer, or terminate the Contract with immediate effect by giving written notice to the Customer if:
- 13.1.1 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 seven days of being notified in writing to do so;
  - 13.1.2 the Customer fails to pay any amount due under the Contract on the due date for payment;
  - 13.1.3 the Customer (being a company) takes any step or action in connection with it 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 if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - 13.1.4 the Customer (being a company) takes any step or action in connection with it applying to court for, or, obtaining a moratorium under Part A1 of the Insolvency Act 1986;
  - 13.1.5 the Customer (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case,



within the meaning of section 268 of the IA 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

- 13.1.6 the Customer (being an individual) is the subject of a bankruptcy petition, application or order;
  - 13.1.7 the Customer suspends, threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
  - 13.1.8 the Customer's financial position deteriorates to such an extent that in Lightweight Containers' opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 13.2 Lightweight Containers may terminate the Contract in accordance with clause 14.
- 13.3 On termination of the Contract for any reason the Customer shall immediately pay to Lightweight Containers all of Lightweight Containers' outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, Lightweight Containers shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 13.4 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 the Contract which existed at or before the date of termination.
- 13.5 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.
14. **BREXIT**
- 14.1 If a Brexit Trigger Event occurs which has or is likely to have an Adverse Impact on Lightweight Containers, Lightweight Containers may:
- 14.1.1 increase the price of the Goods by an amount equal to the imposition of new or additional tariffs on Lightweight Containers in relation to the transfer of goods and/or the provision of services into the UK or any other increase in the costs of goods and/or services wholly or in part attributable to Brexit; and
  - 14.1.2 require the Customer to negotiate an amendment to the Contract to alleviate the Adverse Impact and if renegotiation fails, terminate the Contract in accordance with clause 14.5.
- 14.2 In this clause **Brexit** means the UK ceasing to be a member state of the European Union on 31 January 2020.

- 14.3 In this clause **Brexit Trigger Events** means any of the following events caused by Brexit:
- 14.3.1 a change in the Law or a new requirement to comply with any existing Law or existing Law ceasing to apply to the Customer or Lightweight Containers (for these purposes, **Law** means any legal provision either the Customer or Lightweight Containers must comply with including without limitation any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, enforceable EU right within the meaning of section 2 of the European Communities Act 1972 (as saved and modified by the European Union (Withdrawal) Act 2018), bye-law, regulation, order, mandatory guidance or code of practice, judgment of a court of law, or requirement of any regulatory body, whether in the UK or elsewhere);
  - 14.3.2 in any jurisdiction, the imposition of, or a change to, a duty, tax or levy imposed on imports or exports of the Goods;
  - 14.3.3 in any jurisdiction, the loss of, a change to or the imposition of a new requirement for any licence or consent required by us to perform the Contract or to commercially exploit the Goods including without limitation any export licences; or
  - 14.3.4 an unforeseeable (as at the date of the Order) change to the business or economic environment in which Lightweight Containers operates which is not caused by clause 14.3.1 to clause 14.3.3 (inclusive).
- 14.4 In this clause an **Adverse Impact** means any one of the following:
- 14.4.1 an adverse impact on Lightweight Containers' ability to perform the Contract in accordance with these Conditions and the Law;
  - 14.4.2 an increase in the costs incurred by Lightweight Containers in complying with its obligations under the Contract since the price for the Goods was last agreed; and
  - 14.4.3 the price of the Goods under the Contract is lower than the market value for similar Goods.
- 14.5 If the parties fail to agree a variation within 14 days of the date of Lightweight Containers notifying the Customer that it wishes to renegotiate, Lightweight Containers may, without affecting any other right or remedy available to it, terminate the Contract by giving the Customer not less than 14 days' written notice.

14.6 Save as expressly provided in this clause 14, neither a Brexit Trigger Event nor an Adverse Impact shall terminate or alter (or give either party a right to terminate or alter) the Contract, or invalidate any of these Conditions or discharge or excuse performance under them. If there is an inconsistency between the provisions of this clause and any other provision of the Contract (including these Conditions), the provisions of this clause shall prevail.

## 15. FORCE MAJEURE

15.1 **Force Majeure Event** means any circumstance not within Lightweight Containers' reasonable control including:

15.1.1 acts of God, flood, drought, earthquake or other natural disaster;

15.1.2 epidemic or pandemic (including COVID-19);

15.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

15.1.4 nuclear, chemical or biological contamination or sonic boom;

15.1.5 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;

15.1.6 collapse of buildings, fire, explosion or accident;

15.1.7 national emergency;

15.1.8 malicious damage or theft;

15.1.9 any labour or trade dispute, strikes, industrial action or lockouts;

15.1.10 general unavailability of the internet;

15.1.11 non-performance by Lightweight Containers' suppliers or subcontractors; and/or

15.1.12 interruption or failure of utility service.

15.2 If Lightweight Containers is prevented, impeded, hindered or delayed in or from performing any of its obligations under the Contract by a Force Majeure Event, Lightweight Containers will not be in breach of the Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

## 16. DATA PROTECTION

16.1 Each party shall comply with its obligations under the Data Protection Legislation if and to the extent that the Data Protection Legislation applies to the Contract.

## 17. CONFIDENTIALITY

17.1 The Customer undertakes that it will not at any time disclose to any person any confidential information concerning Lightweight Containers' business, affairs, clients or suppliers and any other information of a confidential nature (including but not limited to all technical or commercial know-how, specifications, designs, schematics, inventions, processes or initiatives which have been disclosed to the Customer by Lightweight Containers, its employees, agents or subcontractors), except as permitted by clause 17.2.

17.2 The Customer may disclose Lightweight Containers' confidential information:

17.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the Customer's rights or carrying out its obligations under or in connection with the Contract and the Customer will ensure that its employees, officers, representatives or advisers to whom it discloses Lightweight Containers' confidential information materially comply with this clause 17; and

17.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

17.3 The Customer shall not use Lightweight Containers' confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

## 18. GENERAL

18.1 Lightweight Containers may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.

18.2 The Customer must not assign, transfer, mortgage, charge, subcontract, delegate, 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 Lightweight Containers.

18.3 The 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.

- 18.4 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 the Contract.
- 18.5 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 18.6 Nothing in the Contract shall limit or exclude either party's liability for fraud or fraudulent misrepresentation.
- 18.7 No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 18.8 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.
- 18.9 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 18.9 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 18.10 Notice given under the Contract shall be in writing, sent to:
- 18.10.1 Lightweight Containers' Premises in the case of Lightweight Containers;
  - 18.10.2 the contact details provided with the Order in the case of the Customer;  
or
  - 18.10.3 such other addresses as may be notified by the Customer to Lightweight Containers (and vice versa) from time to time and shall be delivered personally, sent by email or sent by pre-paid, first-class post or recorded delivery.
- 18.11 A notice is deemed to have been received:
- 18.11.1 if delivered personally, at the time of the delivery;
  - 18.11.2 in the case of email, 09:00 the Business Day following transmission;

- 18.11.3 in the case of airmail, five Business Days following posting; or
- 18.11.4 in the case of prepaid first class post or recorded delivery two Business Days from the date of posting.
- 18.12 To prove service, it is sufficient to prove that the notice was transmitted by email, to the email address provided by the Customer to Lightweight Containers (or vice versa) or, in the case of post, that the envelope containing the notice was properly addressed.
- 18.13 Clause 18.10 to clause 18.12 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.
- 18.14 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
19. **GOVERNING LAW AND JURISDICTION**
- 19.1 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.
- 19.2 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 the Contract or its subject matter or formation.