

FOREST PRODUCE LIMITED

Terms and Conditions for the Supply of Goods

The Customer's attention is drawn in particular to the provisions of clause 9.

1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

"Business Day"	a day (other than a Saturday, Sunday or public holiday) 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 11.6.
"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 Charges"	the Supplier's standard charges for delivery of Goods as set out on its website as www.forestproduce-pavoni.com and www.pavoni.com
"Delivery Location"	has the meaning given; (i) in clause 4.2, where the Goods are subject to delivery by the Supplier; or (ii) in clause 4.3, where the Goods are subject to collection by the Customer.
"Force Majeure Event"	has the meaning given in clause 10.
"Goods"	the goods (or any part of them) set out in the Order.
"Minimum Order Value"	£30 or such other sum notified in writing by the Supplier from time to time.
"Order"	

the Customer's order for the Goods, placed by telephone or facsimile or email, as applicable.

"Supplier" Forest Produce Limited (registered in England and Wales with company number 04647854).

"Supplier's Premises" 7B King Place, Hitchcocks Business Park, Uffculme, Devon EX15 3FH.

1.2 Construction. In these Conditions, the following rules apply:

- 1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.2 A reference to a party includes its personal representatives, successors or permitted assigns.
- 1.2.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.2.4 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.2.5 A reference to **writing** or **written** includes faxes and e-mails.

2. BASIS OF CONTRACT

- 2.1 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 trade, custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order or, if earlier, the Order is fulfilled by the Supplier, at which point the Contract shall come into existence.
- 2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.
- 2.5 Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or

brochures are produced 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.

- 2.6 A quotation or any form of promotion for the Goods given by the Supplier shall not constitute an offer. A quotation or promotion shall only be valid for the later of the period specified in the quotation or promotion or a period of 20 Business Days from its date of issue.
- 2.7 For the avoidance of doubt, a change of name or status of a Customer shall not affect or limit the Customer's liability under a Contract.

3. **GOODS**

- 3.1 The Goods are described in the Supplier's catalogue.
- 3.2 The Supplier reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.

4. **DELIVERY**

- 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, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- 4.2 The Supplier shall deliver the Goods to the delivery location specified by the Customer at the time of Order or such other location as the parties may agree (**Delivery Location**). If the Customer is not present to take delivery of the Goods they shall be left at the Delivery Location in a pre-arranged place or such other place at the Delivery Location as the delivery driver may deem appropriate.
- 4.3 Notwithstanding the provisions of clause 4.2, the Customer may inform the Supplier on or before the date of the Order that the Goods shall be collected from the Supplier's Premises and the Supplier's Premises shall be the Delivery Location in respect of such Order. The Order will be allocated a collection timeslot by the Supplier which shall be notified to the Customer as soon as reasonably practicable following receipt of the Order. The Goods shall be made available at, and the Customer shall collect the Goods from, the Supplier's Premises during the allocated timeslot.
- 4.4 Signature will be requested by or on behalf of the Customer on delivery of the Goods however signature is not required in order for delivery to be complete. Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location in accordance with clause 4.2 or when the Goods are made available at the Supplier's Premises for collection in accordance with clause 4.3, as applicable.

- 4.5 Orders placed before 3 am on a Business Day will usually be delivered on the same Business Day. Orders placed after 3 am on a Business Day will usually be delivered on the following Business Day. Any times quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier 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 the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.6 The Supplier reserves the right to substitute any Goods that are unavailable at the time the Order is placed with alternative Goods of a similar nature.

5. **QUALITY**

- 5.1 The Supplier warrants that on delivery the Goods shall:
- 5.1.1 conform in all material respects with their description; and
 - 5.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).
- 5.2 Subject to clause 5.3, if:
- 5.2.1 the Customer gives notice to the Supplier within 12 hours of delivery of the Goods to the Delivery Location that some or all of the Goods do not comply with the warranty set out in clause 5.1;
 - 5.2.2 the Supplier is given a reasonable opportunity of examining such Goods; and
 - 5.2.3 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business,
- the Supplier shall, at its option, replace the defective Goods or refund the price of the defective Goods in full.
- 5.3 Where an Order is incomplete, if the Customer gives notice to the Supplier as soon as reasonably practicable following discovery that some or all of the Goods have not been delivered, the Supplier shall deliver replacement Goods during the Business Day following receipt of the Customer's notification or, at the Customer's election, refund any costs charged for the missing Goods to the Customer's account or, where the Goods have been paid for in cash-on-delivery, issue the Customer with a credit note to the value of the missing Goods.
- 5.4 The Supplier shall not be liable for Goods' failure to comply with the warranty set out in clause 5.1 in any of the following events:
- 5.4.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 5.2;

- 5.4.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage of the Goods or (if there are none) good trade practice regarding the same; or
 - 5.4.3 the defect arises as a result of wilful damage, negligence, or abnormal storage or working conditions.
- 5.5 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.6 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.
- 5.7 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
- 5.8 Notwithstanding the provisions of clause 5.5, the Customer shall have the right to return any substitute Goods or any other Goods ordered that are no longer required by it provided that the Goods have not been used, opened, damaged or defaced in any way and they are returned to the Supplier in their original packaging on the day of delivery. The cost of any Goods returned in accordance with this clause 5.8 that have been charged to the Customer's account shall be refunded to the Customer's account or, where such Goods have been paid for in cash-on-delivery the Supplier shall issue a credit note to the Customer for the value of such Goods.

6. TITLE AND RISK

- 6.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 6.2 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.
- 6.3 Until title to the Goods has passed to the Customer, the Customer shall:
 - 6.3.1 store the Goods so that they remain readily identifiable as the Supplier's property;
 - 6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - 6.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 8.2; and
 - 6.3.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time.

- 6.4 Subject to clause 6.5, the Customer may use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods.
- 6.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 8.2, then, without limiting any other right or remedy the Supplier may have:
- 6.5.1 the Customer's right to use the Goods in the ordinary course of its business ceases immediately; and
 - 6.5.2 the Supplier may at any time:
 - (a) require the Customer to deliver up all Goods in its possession which have not been used; and
 - (b) 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.

7. PRICE AND PAYMENT

- 7.1 The price of the Goods shall be the price set out in the Supplier's published price list in force as at the date of delivery.
- 7.2 The Supplier may, 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:
- 7.2.1 any factor beyond the Supplier's control;
 - 7.2.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered; or
 - 7.2.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 7.3 The price of the Goods is inclusive of the costs and charges of packaging.
- 7.4 The Supplier shall have no obligation to fulfil an Order that does not meet the Minimum Order Value. If the Supplier accepts an Order where the total Order value is less than the Minimum Order Value the applicable Delivery Charges shall apply and may (at the Supplier's sole discretion) be invoiced to and payable by the Customer. Where an Order meets the Minimum Order Value no delivery charges shall be applied.
- 7.5 The price of the Goods is exclusive of amounts in respect of value added tax (VAT). The Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods.

- 7.6 The Supplier shall invoice the Customer for the Goods on delivery. Unless otherwise agreed all invoices are payable in cash-on-delivery.
- 7.7 The Supplier may, at its sole discretion, open an account for a Customer on the Supplier's standard account terms which shall allow the Customer to pay each invoice in full and in cleared funds by the end of the month following the month the invoice was dated. Payment shall be made to the bank account nominated in writing by the Supplier. Time of payment is of the essence.
- 7.8 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then its Customer account shall be withdrawn forthwith. The Supplier may, at its sole discretion, continue to accept and fulfil Orders placed by the Customer following suspension of its Customer account but solely on a cash-on-delivery basis and any reinstatement of a Customer account following its suspension shall be solely at the Supplier's discretion.
- 7.9 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, the Customer shall pay interest on the overdue amount at the rate of 4% 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.
- 7.10 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.

8. TERMINATION AND SUSPENSION

- 8.1 If the Customer becomes subject to any of the events listed in clause 8.2, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer.
- 8.2 For the purposes of clause 8.1, the relevant events are:
- 8.2.1 the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (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 Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
 - 8.2.2 the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or

- enters into any compromise or arrangement with its creditors other than (where the Customer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- 8.2.3 (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- 8.2.4 (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
- 8.2.5 (being a company) the holder of a qualifying floating charge over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
- 8.2.6 a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
- 8.2.7 (being an individual) the Customer is the subject of a bankruptcy petition or order;
- 8.2.8 a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- 8.2.9 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 8.2.1 to clause 8.2.6 (inclusive);
- 8.2.10 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
- 8.2.11 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; and
- 8.2.12 (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- 8.3 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 8.2.1 to

clause 8.2.12, 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.

- 8.4 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.
- 8.5 Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.
- 8.6 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

9. **LIMITATION OF LIABILITY**

- 9.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
 - 9.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - 9.1.2 fraud or fraudulent misrepresentation;
 - 9.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;
 - 9.1.4 defective products under the Consumer Protection Act 1987; or
 - 9.1.5 any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.
- 9.2 Subject to clause 9.1:
 - 9.2.1 the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
 - 9.2.2 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.

10. **FORCE MAJEURE**

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport

network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

11. GENERAL

11.1 Assignment and other dealings.

11.1.1 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.

11.1.2 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.

11.2 Notices.

11.2.1 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, fax or e-mail.

11.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 11.2.1; 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 e-mail, one Business Day after transmission.

11.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

11.3 Severance.

11.3.1 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.

- 11.3.2 If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 11.4 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. 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.
- 11.5 **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 11.6 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the Supplier.
- 11.7 **Governing law.** The Contract, and any dispute or claim arising out of or 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.
- 11.8 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).