

Cartamundi Turnhout NV - Terms and Conditions of Purchase

1. In these terms and conditions **"the Buyer"** shall mean Cartamundi Turnhout NV and **"the Supplier"** shall mean the company or person(s) to whom the order is issued. These terms and conditions shall govern the supply of goods and/or the provision of services, notwithstanding any other terms and conditions that may be or may have been proposed by the Supplier and shall be deemed incorporated in any contract between the Buyer and the Supplier for the supply of goods and/or the provision of services to the Buyer.
2. The Buyer shall have the right to terminate the order without liability unless accepted by the Supplier within fourteen (14) days from the date of the order. Acceptance of the order constitutes a contract that incorporates these terms and conditions. No variation or amendment of or addition to the order by the Supplier shall form part of any contract unless made or specifically accepted by the Buyer in writing.
3. (a) The Supplier warrants to the Buyer that:
 - (i) all goods and services (1) shall correspond strictly with the description and other specifications supplied or made known to the Supplier and with any sample, (2) shall be in every respect fit for the purpose for which the Buyer has expressly or by implication made known that it requires the same, (3) shall be of satisfactory quality, which is of a standard not less than that of previous supplies (if any) approved by the Buyer and (4) shall comply with all applicable product and toy safety requirements, in particular Toy Safety Directive 2009/48/EC, Cartamundi document QUA409E and PRO028E, a copy of which can be found at www.cartamundi.com ;
 - (ii) all goods will be free from defects in design, material and workmanship;
 - (iii) the supply of all goods and the provision of all services shall comply with all applicable laws and regulations, in particular Belgian laws, regulations and other legal requirements. The Supplier's obligations under this condition shall be in no way affected by whether or not (1) the goods are bought by description, (2) the Supplier deals in goods of the same description, (3) the goods are specified under a patent or trade name or (4) the Buyer has examined the goods or the sample or the defect would have been apparent had it done so;
 - (iv) the supply of all goods and the provision of all services shall comply with Cartamundi's Global Business Ethics Principles, a copy of which can be found at www.cartamundi.com;
 - (v) all services will be provided by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for the Buyer to expect in all the circumstances.
- (b) Without prejudice to any other remedy, if any goods or services are not supplied or performed in accordance with the contract, then the Buyer shall be entitled:
 - (i) to require the Supplier to repair the goods or to supply or provide replacement goods or services in accordance with the contract within seven (7) days or to have them so repaired by a third party, in which case the Supplier shall reimburse the Buyer for all costs and expenses thereby incurred, or;
 - (ii) at the Buyer's sole option, and whether or not the Buyer has previously required the Supplier to repair the goods or to supply any replacement goods or services, to treat the contract as discharged by the Supplier's breach and to require the repayment of any monies that have been paid.
- (c) The Supplier shall indemnify the Buyer in full against all liability, loss, damages, costs and expenses (including legal expenses and consequential or economic loss) awarded against or incurred or paid by the Buyer as a result of or in connection with:
 - (i) the breach of any warranty given by the Supplier in relation to the goods or the services;
 - (ii) any claim that the goods infringe, or their importation, use or resale infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any specification supplied by the Buyer, and;
 - (iii) any act or omission of the Supplier or its employees, agents or subcontractors in supplying the goods or providing the services.
- (d) If the Buyer rejects or refuses to accept any goods having the right to do so it shall so notify the Supplier. If the Supplier does not collect the goods within seven (7) days of such notification, the Buyer may but shall not be bound to return such goods to the Supplier. In the event that the Buyer decides to return the goods, they shall be returned at the risk and expense of the Supplier.
4. (a) The goods properly packed and secured in such manner as to reach their destination in good condition under normal conditions of transport shall be delivered or dispatched for delivery by the Supplier at its cost and risk to the address of the Buyer as specified on the order or as the Buyer shall specify. Delivery shall be made between 0830 hours and 1400 hours Monday to Friday (inclusive) bank and public holidays excepted unless prearranged otherwise.
- (b) Time for delivery of the goods and for the provision of services shall be of the essence in this contract.
- (c) No charge shall be payable by the Buyer for packing, crating, cartons, containers, carriage or storage unless such charge is expressly incorporated in the order.
- (d) The Buyer's order number must be quoted by the Supplier on all invoices, advice notes, correspondence, packing lists and containers.
- (e) The Supplier shall dispatch detailed packing notes and release notes with the goods and shall send to the Buyer advice notes by letter post immediately on the dispatch of the goods.
- (f) The goods shall be marked in accordance with the Buyer's instructions and any applicable regulations or requirements of the carrier.
- (g) In respect of the goods, the Supplier shall be liable for and have full responsibility for transportation, unloading delivery, insurance and all costs attached thereto pursuant to this clause 4.
5. No tools, patterns, raw materials, plates, designs, drawings, schedules, instructions, specifications or other items supplied by the Buyer to the Supplier to enable it to execute the order and no products thereof shall be used or disclosed by the Supplier for any other purpose without the agreement in writing of the Buyer. The same and all rights therein and in respect thereof shall remain the property of the Buyer, shall be kept in good condition and shall be returned to the Buyer at the Supplier's risk on demand. The Supplier agrees to insure the same and indemnify the Buyer against any loss or damage to such items whilst they are in the custody of the Supplier. Any information concerning the business secrets, manufacturing processes or other information relating to the business activities of the Buyer that is not already in the public domain shall be treated as confidential and accordingly shall not be disclosed to any third party. During the term for which the services are being provided the Supplier shall not undertake work for any third party the performance of which would be likely to put the Supplier in a conflict of interest in relation to the confidential information referred to above.
6. If any claim is made against the Buyer by any of its customers or by any third party in respect of injury, loss or damage of any kind due or alleged to be due to a defect or defects in the materials, workmanship or (save where the same has been stipulated by the Buyer) design of the goods supplied by the Supplier, the Supplier will at its own expense provide all facilities, assistance or advice required by the Buyer for the purpose of contesting or dealing with such claim and if such claim is made good the Supplier will indemnify the Buyer against the same damages, loss, costs or expenses incurred in connection therewith. If any such claim is made against the Supplier, the Buyer shall promptly be notified thereof and shall have full power and authority (if it thinks fit) to take over the conduct of the matter and to make any disposal or settlement thereof as agents of the Supplier, as may seem to the Buyer in its absolute discretion to be proper or convenient.
7. The Buyer shall be entitled at any time to make changes in (a) the specifications, drawings and samples, if any; (b) the method of shipment or packaging; (c) the place and time of delivery; and (d) the articles and materials including the quantity thereof to be furnished by the Supplier. If any such changes cause an increase or decrease in the cost of or time required for the performance of the order, an equitable adjustment shall be made in the contract price or delivery schedule or both by mutual consent. Any claim by the Supplier for adjustment under this condition must be asserted within thirty (30) days from the date of receipt by the Supplier of the notification of change.
8. (a) Property in the goods shall pass to the Buyer on delivery or earlier payment of the purchase price without prejudice to any right of rejection which may accrue to the Buyer under these terms and conditions.
 - (b) Risk in the goods shall remain with the Supplier until delivery pursuant to clause 4(a) above is complete.
 - (c) The Supplier undertakes to effect and maintain insurance cover at its own expense to adequately cover its liabilities under this contract.
9. (a) The price of the goods and the services shall be as stated in the order and, unless otherwise so stated, shall be:
 - (i) inclusive of any applicable value added tax and any other similar sales tax, and;
 - (ii) inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery and any duties, imposts or levies other than value added tax.
- (b) No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in the rate of exchange or otherwise) without the prior consent of the Buyer in writing.
- (c) A separate invoice must be rendered for each individual consignment of goods or provision of services and all invoices must quote the Buyer's order number.
- (d) The Buyer specifically reserves the right to deduct from any monies due or to become due to the Supplier any monies due from the Supplier to the Buyer.
10. (a) The Buyer shall be entitled to cancel the order in respect of all or part only of the goods and/or the services by giving notice to the Supplier at any time prior to delivery or performance, in which event the Buyer's sole liability shall be to pay to the Supplier the price for any goods or services delivered or performed to date less the Supplier's net saving of cost arising from cancellation.
 - (b) If the Supplier being an individual shall at any time become bankrupt or shall have a receiving order made against him or shall make any composition or arrangement with or for the benefit of his creditors, or if the Supplier being a company shall go into liquidation (not being a member's winding up for the purpose of reconstruction or amalgamation) or if a receiver shall be appointed or an encumbrancer takes possession of any of its assets or an administration order is made, or the Buyer reasonably apprehends any of the foregoing and notifies the Supplier accordingly, the Buyer shall be at liberty:
 - (i) to cancel the contract summarily by notice in writing without compensation to the Supplier; or
 - (ii) to give any such receiver or liquidator or any other person the option of carrying out the contract.
- The exercise of any of the rights granted to the Buyer under paragraph (b) hereof shall not prejudice or affect any right of action or remedy which shall accrue thereafter to the Buyer.
11. If either of the parties are delayed or hindered in the performance of their obligations by circumstances beyond their reasonable control (including any form of governmental intervention or strikes or lock outs not involving the parties or their respective work forces), then delivery of the goods and/or performance of the services shall be suspended and if such delivery of the goods and/or performance of the services cannot be effected within a reasonable time after the due date, delivery and/or performance may be cancelled by either party upon giving notice without liability to the other party.
12. The Supplier shall afford the Buyer and its employees or agents every facility for inspection of the goods and of any raw or finished materials or work before, during and after manufacture. The Buyer shall be entitled to reject forthwith any goods, materials or work which do not comply with the standard required or the terms expressed or implied in the order as to quality, condition or description. Notwithstanding any inspection or any failure to inspect the Buyer shall remain entitled to reject any such goods, materials or work upon delivery or within a reasonable time thereafter, and goods or materials so rejected will be returned at the Supplier's expense and risk. The Buyer shall not be deemed to have accepted the goods until it has had a reasonable opportunity to inspect the goods following delivery or, if later, within a reasonable time after any latent defect in the goods has become apparent.
13. If the order is for the supply of goods or the provision of services by instalments and (a) the Supplier fails to supply the goods or provide the services hereby ordered or any of them within the time stipulated in the contract or if any of the goods be lawfully rejected by the Buyer, or if there be any failure by the Supplier to comply with these terms and conditions, or (b) the Buyer cancels the order pursuant to clause 10 above and any of the events stated at (a) or (b) above occurs in relation to one or more instalments, the Buyer's right to cancel shall extend to the whole balance of the order not already supplied and/or provided and accepted, or any part thereof.
14. The Supplier warrants that the sale or use of goods or materials and the provision of services pursuant to the order will not infringe any patents, registered designs, trademarks or other rights generally, and undertakes to indemnify the Buyer against damages, costs and expenses and all judgments, decrees or orders arising out of any such infringement or alleged infringement, including all costs and expenses of an incidental nature to the defence of legal proceedings in connection therewith. All copyright and other intellectual property rights in the goods supplied or services provided and physical possession of any media upon which such rights are contained (including any preparatory material and any media used to store such material) pursuant to or resulting from the order shall be the property of and are hereby assigned with full title guarantee to the Buyer. Acceptance of the terms hereof will be deemed an absolute assignment of such rights with full title guarantee by the Supplier to the Buyer. The Supplier hereby agrees at the Buyer's cost to execute or complete any format consents or agreements reasonably required by the Buyer to formalise or enforce the rights granted herein. Where applicable, the Supplier waives all moral rights in the goods supplied and services provided hereunder in so far as they relate to the Buyer, and shall obtain all waivers of moral rights and consents from any employee, agent, subcontractor or other third party necessary to comply with its obligations hereunder.
15. The Supplier will not without the prior written consent of the Buyer in any way whatsoever advertise or publish the fact that the Supplier has contracted to supply and/or provide to the Buyer the goods and/or services herein mentioned.
16. The contract is personal to the Supplier and the Supplier shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the contract without the prior written consent of the Buyer.
17. Any notice required or permitted to be given by either party to the other under these terms and conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
18. No waiver by the Buyer of any breach of the contract by the Supplier shall be considered as a waiver of any subsequent breach of the same or any other provision.
19. If any provision of these terms and conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these terms and conditions and the remainder of the provision in question shall not be affected thereby.
20. No variation, amendment of or addition to these terms and conditions shall be valid unless signed by both parties.
21. The construction, validity and performance of this contract shall be governed by the laws of Belgium and any claim or dispute arising therefrom shall be subject to the jurisdiction of and be determined by Belgian courts.

