

1 Introduction

In purchasing Goods from the Supplier, via the Supplier's Website, In-Store, via telephone or fax, or via email the Customer agrees to be legally bound by these Conditions.

2 Definitions and interpretation

2.1 In these Conditions the following definitions apply:

Applicable Law	means all applicable laws, legislation, statutory instruments, regulations and governmental guidance having binding force whether local or national;
Business Day	means a day other than a Saturday, Sunday or bank or public holiday;
Conditions	means the Supplier's terms and conditions of sale set out in this document;
Contract	means the agreement between the Supplier and the Customer for the sale and purchase of the Goods incorporating these Conditions and the Order, attachments, annexures and statements of work;
Customer	means the named party in the Contract which has agreed to purchase the Goods from the Supplier and whose details are set out in the Order;
Fax	means the Supplier's fax number 02392246471;
Force Majeure	has the meaning given in clause 13;
Goods	means the goods and other physical material set out in the Order and to be supplied by the Supplier to the Customer in accordance with the Contract;
In-Store	means the Supplier's premises at 154 London Road, Purbrook, Waterlooville, PO7 5SR;
Location	means kerb-side at the address or addresses for delivery of the Goods as set out in the Order;
Order	means an order for the Goods from the Supplier placed by the Customer in substantially the same form set out in the

	Supplier's sales order form;
Price	has the meaning given in clause 5.1;
Supplier	means J.F. Goodwillie Limited (company number 00142628) with registered office at London Road, Waterlooville, Hants, PO7 5SR;
Telephone	means the Supplier's telephone number 02392246470;
VAT	means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Goods; and
Website	means the Supplier's website at https://www.goodwillies.co.uk/ .

2.2 In these Conditions, unless the context requires otherwise:

- 2.2.1 a reference to the Contract includes these Conditions, the Order, and their respective appendices and annexes (if any);
- 2.2.2 any clause or other headings in these Conditions is included for convenience only and shall have no effect on the interpretation of the Conditions;
- 2.2.3 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;
- 2.2.4 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 2.2.5 words in the singular include the plural and vice versa;
- 2.2.6 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 2.2.7 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form (excluding email); and
- 2.2.8 a reference to legislation is a reference to that legislation as in force at the date of the Contract and includes all subordinate legislation made as at the date of the Contract under that legislation.

3 Application of these conditions

3.1 These Conditions apply to and form part of the Contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.

- 3.2 Each Order by the Customer to the Supplier shall be an offer to purchase the Goods subject to the Contract including these Conditions.
- 3.3 If the Supplier is unable to accept an Order, it shall notify the Customer in writing as soon as reasonably practicable.
- 3.4 The offer constituted by an Order shall remain in effect and capable of being accepted by the Supplier for 28 days from the date on which the Customer submitted the Order, after which time the Supplier may amend or withdraw the offer.
- 3.5 The Supplier may accept or reject an Order at its discretion. An Order shall not be accepted, and no binding obligation to supply any Goods shall arise, until the earlier of:
- 3.5.1 the Supplier's written acceptance of the Order; or
- 3.5.2 the Supplier dispatching the Goods or notifying the Customer that they are available for collection (as the case may be).
- 3.6 Rejection by the Supplier of an Order, including any communication that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by the Customer.
- 3.7 Marketing and other promotional material relating to the Goods are illustrative only and do not form part of the Contract.

4 Orders

- 4.1 The Supplier may issue quotations to the Customer from time to time. Quotations are invitations to treat only. They are not an offer to supply the Goods and are incapable of being accepted by the Customer.
- 4.2 In the case of Orders made In-Store the Order will only be accepted once it is confirmed In-Store by the Supplier once payment has been made in full.
- 4.3 In the case of Orders made via credit provided by the Supplier, the Order will only be accepted once the Supplier provides the Customer with written confirmation of acceptance of the Order.
- 4.4 In the case of Orders made via the Supplier's Website and via telephone, the Order will only be accepted once an email is sent from the Supplier to the Customer, confirming the order (**Confirmation Email**).
- 4.5 The Customer must inform the Supplier of any specific grading requirements, at the time of placing the Order. The Supplier will not be liable for any discrepancies in grading.

5 Price

- 5.1 The price for the Goods shall be as set out in the Order or, where no such provision is set out, shall be as advised by the Supplier from time to time before the date the Order is placed (**Price**).
- 5.2 The Prices are exclusive of:
- 5.2.1 packaging, delivery, insurance, shipping carriage, and all other related charges which shall be charged in addition at the Supplier's standard rates, and

5.2.2 VAT (or equivalent sales tax).

5.3 The Customer shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.

5.4 The Supplier may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Supplier of supplying the relevant Goods which exceeds 10% and which is due to any factor beyond the control of the Supplier, or where such increase is due to any changes to or delay in performance of the Contract caused by the actions, defaults and requests by the Customer. The Supplier may also terminate the Contract, at its sole discretion.

6 Payment

6.1 Where the Customer makes payment via cheque, the Supplier reserves the right to withhold release of the Goods until such time as the cheque has been cleared in full.

6.2 Where the Customer makes payment via credit card or debit card, the Supplier reserves the right to withhold release of the Goods until such time as the payment is authorised by the Customer's card issuer.

6.3 The Supplier shall invoice the Customer for the Goods, partially or in full, at any time following acceptance of the Order.

6.4 The Customer shall pay all invoices:

6.4.1 in full (less any discount or credit allowed by the Supplier, but without any other deduction, credit or set-off), immediately upon receipt of the invoice or in the case of credit provided by the Supplier to the Customer, by the 20th day of the following month; and/or

6.4.2 to the bank account nominated by the Supplier.

6.5 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:

6.5.1 the Supplier may, without limiting its other rights, charge interest on such sums at 4% a year above the base rate of National Westminster Bank from time to time in force;

6.5.2 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment;

6.5.3 the Supplier may suspend any outstanding deliveries to the Customer; and

6.5.4 the Supplier may refer the matter to a third-party debt recovery agency.

6.6 The Supplier may set and vary credit limits from time to time and withhold all further supplies if the Customer exceeds such credit limit.

7 Delivery

7.1 The Goods shall be delivered by the Supplier, or its nominated carrier, to the Location on the date(s) specified in the Order, or in the case of In-Store purchases, when the Customer is in physical possession of the Goods.

- 7.2 Delivery shall be as near to the Location, in the Supplier's absolute discretion, as a safe hard road permits. In all other circumstances, the Supplier will not accept any liability (except in respect of personal injury or death caused by the Supplier's negligence) for any damage caused by the vehicle or the driver.
- 7.3 The Customer shall be responsible for the unloading and storage of the Goods, and the Supplier will not be liable for any damage which may occur in the course of unloading.
- 7.4 The Goods shall be deemed delivered on arrival only of the Goods at the Location by the Supplier or its nominated carrier (as the case may be), or in the case of In-Store purchases, when the Customer is in physical possession of the Goods.
- 7.5 The Supplier may deliver the Goods in instalments. Any delay or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 7.6 The Customer shall not be entitled to reject a delivery of the Goods on the basis that an incorrect volume of the Goods has been supplied.
- 7.7 Delivery of the Goods shall be accompanied by a delivery note stating:
- 7.7.1 the date of the Order;
 - 7.7.2 the product numbers, type and quantity of the Goods in the consignment; and
 - 7.7.3 any special handling instructions.
- 7.8 The Customer is under a duty whenever possible to inspect the Goods on delivery or on collection as the case may be.
- 7.9 Where the Goods cannot be examined the carrier's note or such other note as appropriate shall be marked "not examined".
- 7.10 The Supplier shall be under no liability for any damage or shortages that would be apparent on reasonable careful inspection if the provisions of this clause are not complied with.
- 7.11 In all cases where defects or shortages are complained of the Supplier shall be under no liability in respect thereof unless an opportunity to inspect the Goods is supplied to the Supplier before any use is made thereof or any alteration or modification is made thereto by the Customer.
- 7.12 Time of delivery is not of the essence. The Supplier shall use its reasonable endeavours to meet delivery dates but such dates are indicative only.
- 7.13 Unless the parties agree otherwise, packaging material is to be retained by the Customer. In the case of dunnage used to transport the Goods, these are the sole property of the Supplier and must not be retained by the Customer, unless agreed in writing between the parties.
- 7.14 The Supplier shall not be liable for any delay in or failure of delivery caused by:
- 7.14.1 the Customer's failure to make the Location available;
 - 7.14.2 the Customer's failure to prepare the Location in accordance with the Supplier's instructions;

7.14.3 the Customer's failure to provide the Supplier with adequate instructions for delivery and installation or otherwise relating to the Goods;

7.14.4 Force Majeure.

7.15 If the Customer fails to accept delivery of the Goods or fails to collect the Goods, the Supplier may store and insure the Goods at the Supplier's premises for 7 Business Days.

7.16 If 7 Business Days following the due date for delivery or collection of the Goods, the Customer has not taken delivery of or collected them, the Supplier may resell or otherwise dispose of the Goods without any obligation or liability to the Customer.

8 Cancellation

8.1 The Customer shall have 14 days from the date of the Order, to cancel their Order (**Cancellation Period**).

8.2 The Customer must inform the Supplier of its decision to cancel its Order, using the Supplier's contact details as detailed on its Website.

8.3 In the event the Customer cancels its Order during the Cancellation Period, the Supplier will reimburse the Customer the total cost of the Order (excluding supplementary costs).

8.4 The Supplier withholds the right to make deductions from the reimbursement for loss in value of any Goods supplied.

8.5 The Supplier will reimburse the Customer without undue delay, and not later than:

8.5.1 14 days after the day the Supplier receives back the Goods supplied to the Customer;
or

8.5.2 if no Goods were supplied, 14 days after the date on which the Supplier is informed by the Customer of its decision to cancel the Order.

8.6 The Supplier may withhold reimbursement until it has received the Goods back from the Customer, or the Customer has supplied evidence of having sent back the Goods, whichever is the earliest.

8.7 If the Customer has received the Goods the Customer shall return the Goods, without undue delay and in any event not later than 14 days from the day on which the Customer communicates its cancellation of the Order, to the Supplier.

8.8 In the event the Customer is unable or unwilling to return the Goods, the Supplier shall collect the Goods from the Location, at the Customers expense as follows:

8.8.1 delivery costs as stated on the Order. The Supplier may, at its sole discretion, increase or decrease such delivery costs; and

8.8.2 handling charges of up to 10% of the Price, which will be agreed prior to the Supplier confirming its acceptance of the Cancellation. The Supplier may, at its sole discretion, increase or decrease such handling costs.

9 Risk and title

- 9.1 Risk in the Goods shall pass from the Supplier to the Customer:
- 9.1.1 in the case of Goods to be delivered at the Supplier's premises for collection by the Customer, the time when the Supplier notifies the Customer that the Goods are available for collection;
 - 9.1.2 in the case of Goods to be delivered otherwise than at the Supplier's premises, the time of delivery or, if the Customer wrongly fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods; or
 - 9.1.3 in the case of Goods purchased In-Store, the time when the Customer is in possession of the Goods.
- 9.2 Title to the Goods shall pass to the Customer once the Supplier has received payment in full and cleared funds for the Goods.
- 9.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 9.3.1 store the Goods separately from all other material in the Customer's possession;
 - 9.3.2 take all reasonable care of the Goods and keep them in the condition in which they were delivered; and
 - 9.3.3 ensure that the Goods are clearly identifiable as belonging to the Supplier.
- 9.4 If, at any time before title to the Goods has passed to the Customer, the Customer informs the Supplier, or the Supplier reasonably believes, that the Customer has or is likely to become subject to any of the events specified in clause 12, the Supplier may:
- 9.4.1 require the Customer to return the Goods to the Supplier; and
 - 9.4.2 if the Customer fails to do so promptly, enter any premises where the Goods are stored and repossess them.
- 9.5 The Supplier's demand for or recovery of the Goods shall not of itself discharge either the Customer's liability to pay the whole of the Price and take Delivery, or the Supplier's right to sue for the whole of the Price.

10 Indemnity and insurance

- 10.1 The Customer shall indemnify the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses which the Supplier may suffer or incur directly or indirectly from the Customer's breach of any of its obligations under the Contract.

11 Limitation of liability

- 11.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause.
- 11.2 The Supplier's total liability shall not exceed the value of the Order.

- 11.3 The Supplier shall not be liable for consequential, indirect or special losses.
- 11.4 The Supplier shall not be liable for any of the following (whether direct or indirect):
- 11.4.1 loss of profit;
 - 11.4.2 loss of use;
 - 11.4.3 loss of production;
 - 11.4.4 loss of contract;
 - 11.4.5 loss of opportunity;
 - 11.4.6 harm to reputation or loss of goodwill.
- 11.5 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:
- 11.5.1 death or personal injury caused by negligence;
 - 11.5.2 fraud or fraudulent misrepresentation;
 - 11.5.3 any other losses which cannot be excluded or limited by Applicable Law;
 - 11.5.4 any losses caused by wilful misconduct.

12 Force majeure

- 12.1 In this clause 'Force Majeure' means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under this Agreement. Inability to pay is not Force Majeure.
- 12.2 A party shall not be liable if delayed in or prevented from performing its obligations under this Agreement due to Force Majeure, provided that it promptly notifies the other of the Force Majeure event and its expected duration; and uses reasonable endeavours to minimise the effects of that event.

13 Termination

- 13.1 The Supplier may terminate the Contract or any other contract which it has with the Customer at any time by giving notice in writing to the Customer if the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid 14 days after the date that the Supplier has given notification to the Customer that the payment is overdue.
- 13.2 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if the Customer:
- 13.2.1 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the Supplier reasonably believes that to be the case;
 - 13.2.2 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;

- 13.2.3 becomes subject to a moratorium under Part A1 of the Insolvency Act 1986;
 - 13.2.4 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
 - 13.2.5 has a resolution passed for its winding up;
 - 13.2.6 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
 - 13.2.7 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within seven days of that procedure being commenced;
 - 13.2.8 has a freezing order made against it;
 - 13.2.9 takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clause 12.2 including giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process; or
 - 13.2.10 in accordance with clause 5.4.
- 13.3 If the Customer becomes aware that any event has occurred, or circumstances exist, which may entitle the Supplier to terminate the Contract under this clause, it shall immediately notify the Supplier in writing.
- 13.4 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Supplier at any time up to the date of termination.

14 Notices

- 14.1 Any notice given by a party under these Conditions shall:
- 14.1.1 be in writing and in English;
 - 14.1.2 be signed by, or on behalf of, the party giving it (except for notices sent by email); and
 - 14.1.3 be sent to the relevant party at the address set out in the Contract.
- 14.2 Notices may be given, and are deemed received:
- 14.2.1 by hand: on receipt of a signature at the time of delivery;
 - 14.2.2 by post: at 9.00 am on the second Business Day after posting;
 - 14.2.3 by email on receipt of a delivery receipt email from the correct address.
- 14.3 This clause does not apply to notices given in legal proceedings or arbitration.

15 Time

Unless stated otherwise, time is of the essence of any date or period specified in the Contract in relation to the Customer's obligations only.

16 Entire agreement

16.1 The parties agree that the Contract and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

16.2 Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

16.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.

17 Variation

No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, each party.

18 Assignment

The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Supplier's prior written consent.

19 Severance

If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.

20 Waiver

20.1 No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy

20.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Supplier shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Supplier.

20.3 A waiver of any term, provision, condition or breach of the Contract by the Supplier shall only be effective if given in writing and signed by the Supplier, and then only in the instance and for the purpose for which it is given.

21 Conflicts within contract

If there is a conflict between the terms contained in the Conditions and the terms of the Order, appendices or annexes to the Contract, the terms of the Conditions shall prevail to the extent of the conflict.

22 Third party rights

A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

23 Dispute resolution

23.1 If any dispute arises between the parties out of or in connection with the Contract, the matter shall be referred to senior representatives of each party who shall use their reasonable endeavours to resolve it.

23.2 If the dispute is not resolved within 14 days of the referral being made, the parties may resolve the matter through mediation in accordance with the London Court of International Arbitration Mediation Rules.

23.3 Until the parties have completed the steps referred to in clauses 23.1 and 23.2, and have failed to resolve the dispute, neither party shall commence formal legal proceedings or arbitration except that either party may at any time seek urgent interim relief.

24 Governing law and jurisdiction

24.1 The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

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