



# Terms of business

March 2021

These terms and conditions together with the quotation shall constitute a valid contract between the parties. Any variation to these terms shall be set out in the quotation and where there is conflict of terms the quotation shall supersede the terms.

[www.morsapack.com](http://www.morsapack.com)





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## 1.0. Interpretation

**1.1.** In these Conditions: 'Business Days' refers to a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

'Buyer' means the company, persons or legal entity that accepts a Quotation of MorsaPack for the sale of the Goods or whose order for the Goods is accepted by MorsaPack.

'Charges' refers to the charges relating to the Services and shall be a minimum of 50 per cent of the Goods that Services are being provided on.

'Conditions' means these terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and MorsaPack.

'Contract' means the contract for the purchase and sale of the Goods.

'Data Controller' refers to the Buyer regarding their Personal Data.

'Data Processor' refers to MorsaPack for the provision of Goods and Services.

'Data Protection Legislation' refers to all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended; any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications);

'Controller', 'Processor', 'Data Subject' and 'Personal Data', 'Special Categories of Personal Data', 'Processing' an "appropriate technical and organisational measures" shall have the meanings given to them in the Data Protection Legislation.

'Goods' means the machinery and/or parts or other such goods (including any instalment of the goods or any parts for them) which MorsaPack is to supply in accordance with these Conditions, including services relating to such Goods where services are provided pursuant of these Conditions.

'MorsaPack' means MorsaPack Limited (registered in England and Wales under number 5127146).

'Services' refers to any services that MorsaPack provide Customers including but not limited to consultancy, installation and maintenance services.

'Writing' refers to written communication and includes e-mail and comparable means of communication.

'Quotation' refers to a separate written document provided by MorsaPack to the Buyer and shall include details including but not limited to the Buyer requirements, pricing, and other relevant order details.

**1.2.** Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted, or extended at the relevant time.

**1.3.** The headings in these Conditions are for convenience only and shall not affect their interpretation.

## 2.0. Basis of the sale

**2.1.** MorsaPack shall sell the Goods or Services in accordance with any Quotation of MorsaPack which is accepted by the Buyer, or any order of the Buyer which is accepted by MorsaPack which shall be governed by these Conditions to the exclusion of any other.

**2.2.** MorsaPack's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by a director of MorsaPack in Writing. In entering into the Contract, the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.

**2.3.** Any advice or recommendation given by MorsaPack or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by a director of MorsaPack is followed or acted upon entirely at the Buyer's own risk, and accordingly MorsaPack shall not be liable for any such advice or recommendation which is not so confirmed.

**2.4.** Any typographical, clerical, or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by MorsaPack shall be subject to correction without any liability on the part of MorsaPack.

## 3.0. Terms of Orders and Service

**3.1.** No Goods order or request for Services submitted by the Buyer shall be deemed to be accepted by MorsaPack unless and until confirmed by MorsaPack's authorised representative.

**3.2.** The Buyer shall be responsible to MorsaPack for ensuring the accuracy of the terms of any Service or Goods order (including any applicable specification) submitted by the Buyer, and for giving MorsaPack any necessary information relating to the Goods or Services within a sufficient time to enable MorsaPack to perform the Contract in accordance with its terms.

**3.3.** The quantity, quality, and description of and any specification for the Goods shall be those set out in MorsaPack's Quotation or any supplementary documentation or the Buyer's order. All Services shall be provided in accordance with the MorsaPack's current brochure or other published literature relating to the Service from time to time, subject to these Conditions.

**3.4.** If the Goods are to be manufactured or any process is to be applied to the Goods by MorsaPack in accordance with a specific patent, copyright, design, trademark or other industrial or intellectual property right submitted by the Buyer, the Buyer shall notify MorsaPack prior to the acceptance of a Quotation and in any event shall provide MorsaPack with no less than 30 days written notice of their specific requirements prior to required delivery.

**3.5.** MorsaPack reserves the right to make any changes in the specification of the Goods or Services which are required to conform with any applicable statutory requirements or, where the Goods are to be supplied to MorsaPack's specification, which do not materially affect their quality or performance. MorsaPack will make reasonable endeavours to notify the Customer of any such variations but is not obliged to do so.

## 4.0. Price of the Goods and Services

**4.1.** The price of the Goods shall be set out in the Quotation. All prices quoted are valid for 30 days, after which time they may be altered by MorsaPack and the Quotation will be re-issued accordingly. The Buyer accepts that for the provision of Services an on-site inspection may be required before a Quotation can be provided for the Buyer to accept.

**4.2.** The Buyer acknowledges and agrees that MorsaPack may be required to vary the price of the Goods and/or Services prior to delivery if there is a variation in any factors outside of MorsaPack control including but not limited to any foreign exchange fluctuation, import or export tax, currency regulation, alteration of duties, significant increase in the costs of labour, materials, or other costs of manufacture. MorsaPack shall make all reasonable endeavours to provide notice of this to the Buyer at any time before delivery.

**4.3.** MorsaPack reserves the right to vary any quotation accordingly if the Buyer requires or requests any change in delivery dates, quantities or specifications for the Goods, or the Buyer causes any delay through the provision or implementation of their instructions or failure of the Buyer to give MorsaPack adequate information or instructions.

**4.4.** Except as otherwise stated under the terms of any quotation or in any price list of MorsaPack, and unless otherwise agreed in Writing between the Buyer and MorsaPack, all prices are given for the Goods by MorsaPack do not include any additional Services unless expressly set out in the Quotation, and where MorsaPack agrees to deliver the Goods otherwise than at MorsaPack's premises, the Buyer shall be liable to pay MorsaPack's charges for transport, packaging, and insurance.

**4.5.** The price is exclusive of any applicable tax including but not limited to value added tax, which the Buyer shall be additionally liable to pay.

**4.6.** The cost of pallets and other such returnable containers should be returned to MorsaPack before the payment is due or the Buyer will be liable for the full price of such Goods. Where the Buyer is liable for the price of such Goods they shall be invoiced, and these shall be payable in accordance with clause 5.3.

## 5.0. Terms of payment

**5.1.** Unless otherwise agreed in Writing between the parties, MorsaPack shall be entitled to invoice on dispatch of Goods or at any time after.

**5.2.** Subject to clause 5.1 where the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods as agreed, MorsaPack shall be entitled to invoice the Buyer for the price at any time after MorsaPack has notified the Buyer that the Goods are ready for collection or (as the case may be) MorsaPack has tendered delivery of the Goods.

**5.3.** Unless the parties have agreed to credit terms, which shall be set out in the quotation, the Buyer must pay the provided invoices immediately on receipt.

**5.4.** In respect of any Services provided by MorsaPack, MorsaPack's standard Charges and any additional sums payable shall be invoiced and paid by the Buyer within 30 days from the date of invoice.

**5.5.** If the Buyer fails to make any payment in accordance with clause 5.3 or 5.4 (as applicable), without prejudice to any other right or remedy available to MorsaPack, MorsaPack shall be entitled to:

**5.5.1.** cancel the contract or suspend any further deliveries or services to the Buyer; or

**5.5.2.** charge the accrual of interest on any outstanding sum at a rate applicable in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

## 6.0. Delivery

**6.1.** Unless otherwise agreed between the parties the Goods shall be collected by the Buyer from MorsaPack's premises 20 Business Days after MorsaPack has notified the Buyer that the Goods are ready for collection.

**6.2.** Any dates quoted for delivery of the Goods or Services are estimates only and MorsaPack shall not be liable for any delay however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by MorsaPack in writing.

**6.3.** MorsaPack reserves the right to deliver Goods up to 10 per cent more or less than the quantity ordered, and the quantity so delivered shall be deemed to be the quantity ordered and the price adjusted accordingly. Where the Buyer requires no less than the amount of Goods ordered the Buyer must so notify MorsaPack in writing prior to acceptance of the Quotation.

**6.4.** Where the Goods are to be delivered in instalments, this shall be specified in the Quotation and prices may be agreed from time to time between the parties.

**6.5.** If MorsaPack fails to deliver the Goods (or any instalment) or Services for any reason other than any cause beyond MorsaPack's reasonable control or as a consequence of the Buyer's actions or omissions, and MorsaPack is accordingly liable to the Buyer, MorsaPack's liability shall be limited in accordance with clause 10.2.

**6.6.** If the Buyer fails to take delivery of the Goods or fails to give MorsaPack adequate delivery instructions (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of MorsaPack's fault) then, without prejudice to any other right or remedy available to MorsaPack, MorsaPack may:

**6.6.1.** store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

**6.6.2.** sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

## 7.0. Risk and property

**7.1.** Risk of damage to or loss of the Goods shall pass to the Buyer when MorsaPack notifies the Buyer that the Goods are available for collection or at the time of delivery whichever comes first.

**7.2.** The title and ownership of the Goods shall not pass to the Buyer until MorsaPack has received full and final settlement of all outstanding invoices.

**7.3.** Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods on trust for MorsaPack until such time as MorsaPack receives full and final settlement of all outstanding invoices and shall keep the Goods separate from all other Goods owned by the Buyer and/or third parties and properly stored, protected, and insured and identified as MorsaPack's property.

**7.4.** Until such time as ownership in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been used or resold), MorsaPack shall be entitled at any time to recover the Goods and, if the Buyer fails to provide them MorsaPack reserve the right to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.



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## 8.0. Term and Termination

**8.1.** The parties acknowledge and accept that the contract shall commence on the date of acceptance of the Quotation and shall continue in full force and effect until full and final payment of the last outstanding invoice.

**8.2.** The Buyer will not be permitted to cancel any Quotation for any reason once it has been agreed unless they obtain MorsaPack's written consent. The Buyer acknowledges and accepts that there may be charges that they will be liable to pay if this is permitted.

**8.3.** MorsaPack may be permitted at any time for any reason to cancel a Quotation with 5 working days' notice without liability to the Buyer.

**8.4.** Either party may be permitted to terminate the Agreement with immediate effect without liability to the other where it is evident that the other party:

**8.4.1.** makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

**8.4.2.** an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

**8.4.3.** ceases, or threatens to cease, to carry on business; or

**8.4.4.** commits a significant material breach of the Agreement that is unable to be remedied within 30 days from notification of such breach.

**8.5.** Unless the Agreement is terminated in accordance with clause 8 the Buyer must ensure that they pay all outstanding invoices.

## 9.0. Warranties

**9.1.** Unless otherwise stated in Writing and subject to Clause 9.2. MorsaPack warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 12 months from the date of their initial use or date of delivery, whichever comes first. MorsaPack warrants to the Buyer that all services will be provided using reasonable skill and care and, as far as reasonably possible, in accordance with any specification agreed for them. These warranties are not transferable.

**9.2.** Clause 9.1 is subject to the following conditions:

**9.2.1.** MorsaPack receives proper maintenance records of Goods where required;

**9.2.2.** MorsaPack shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;

**9.2.3.** MorsaPack shall be under no liability in respect of any defect arising from wilful damage, negligence, abnormal working conditions, failure to follow MorsaPack's instructions (whether oral or in writing) including as to correct installation and maintenance, misuse or alteration or repair of the Goods without MorsaPack's approval;

**9.2.4.** MorsaPack shall be under no liability (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;

**9.2.5.** It does not extend to parts, materials or equipment not manufactured by MorsaPack, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to MorsaPack.

**9.3.** Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification must be notified to MorsaPack within 7 days from the date of delivery or discovery of the defect. Failure to comply with these provisions may result in the Buyer not being permitted to reject the Goods and MorsaPack shall have no liability for such defect or failure. All outstanding sums will remain fully due and payable without variation on this basis.

**9.4.** Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to MorsaPack in accordance with clause 9.3, MorsaPack shall be entitled to replace the Goods (or the part in question) free of charge or, at MorsaPack's sole discretion, refund to the Buyer the price of the Goods or a proportionate part of the price. Following this MorsaPack shall have no further liability to the Buyer for any additional costs or losses in any way.

## 10.0. Liability and Indemnities

**10.1.** Except in respect of death or personal injury caused by MorsaPack's negligence, MorsaPack shall not be liable to the Buyer by reason of any representation (unless fraudulent), or for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of MorsaPack, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or Services.

**10.2.** The entire liability of MorsaPack under or in connection with the Contract shall not exceed 125% of any agreed Quotation, except as expressly provided in these Conditions.

**10.3.** MorsaPack shall not be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances all timings agreed between the parties shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay continues for 6 months, the party not affected may terminate this agreement by giving 30 days written notice to the affected party.

**10.4.** The Buyer shall indemnify MorsaPack against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by MorsaPack arising out of or in connection with:

**10.4.1.** The Buyer's breach or negligent performance or non-performance of this agreement;

**10.4.2.** the enforcement of this agreement;

**10.4.3.** any claim made against MorsaPack for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with clause 3.4 where MorsaPack may be required to utilise third party intellectual property rights for the provision of Good specification agreed in the Quotation;

**10.4.4.** any claim made against MorsaPack by a third party arising out of or in connection with the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this agreement by the Buyer, its employees, agents or subcontractors;

**10.4.5.** any claim made against MorsaPack by a third party for death, personal injury or damage to property arising out of or in connection with defective Goods, to the extent that the defect in the Goods is attributable to the acts or omissions of the Buyer, its employees, agents, or subcontractors.

## 11.0. Data Protection

**11.1.** The parties share Personal Data for the provision of Goods and Services and the parties acknowledge and agree that for this Purpose the Buyer shall be the Data Controller and MorsaPack the Data Processor.

**11.2.** Each party shall ensure that it processes the Personal Data fairly and lawfully in accordance with clause 11.3 during the Term of this agreement.

**11.3.** Each party shall ensure that it has legitimate grounds under the Data Protection Legislation for the processing of Personal Data.

**11.4.** The Data Controller shall, in respect of Personal Data, ensure that it provides clear and sufficient information to the data subjects, in accordance with the Data Protection Legislation, of the purposes for which it will process their Personal Data, the legal basis for such purposes and such other information as is required by Data Protection Legislation including:

**11.4.1.** if Shared Personal Data will be transferred to a third party, that fact and sufficient information about such transfer and the purpose of such transfer to enable the data subject to understand the purpose and risks of such transfer; and

**11.4.2.** if Shared Personal Data will be transferred outside the EEA pursuant to clause 9.3 of this Agreement, that fact and sufficient information about such transfer, the purpose of such transfer and the safeguards put in place by the controller to enable the data subject to understand the purpose and risks of such transfer.

**11.5.** The parties each agree to provide such assistance as is reasonably required to enable the other party to comply with requests from Data Subjects to exercise their rights under the Data Protection Legislation within the time limits imposed by the Data Protection Legislation.

**11.6.** The parties acknowledge and accept that any Personal Data shared for the Goods or Services shall be retained for up to 7 years as required by MorsaPack to comply with their legal and regulatory obligations.

**11.7.** The parties undertake to have in place throughout the Term appropriate technical and organisational security measures to:

**11.7.1.** prevent unauthorised or unlawful processing of the Shared Personal Data; and

**11.7.2.** prevent the accidental loss or destruction of, or damage to, the Shared Personal Data

**11.7.3.** ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and the nature of the Shared Personal Data to be protected.

**11.8.** It is the responsibility of each party to ensure that its staff members are appropriately trained to handle and process the Shared Personal Data in accordance with the technical and organisational security measures.

**11.9.** The parties shall each comply with its obligation to report a Personal Data Breach to the appropriate Supervisory Authority and (where applicable) data subjects and shall each inform the other party of any Personal Data Breach.

**11.10.** The parties agree to provide reasonable assistance as is necessary to each other to facilitate the handling of any Personal Data Breach in an expeditious and compliant manner.

## 12.0. General

**12.1.** No variation of this agreement shall be effective unless it is in writing and signed by the parties authorised representatives that shall be set out in the Quotation.

**12.2.** Any notice required or permitted to be given by either party to the other under these 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.

**12.3.** This agreement 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.

**12.4.** No failure or delay by a party to exercise any right or remedy provided under this agreement 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.

**12.5.** If any provision or part-provision of this agreement 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 this agreement.

**12.6.** Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party

**12.7.** This agreement 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. 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 this agreement or its subject matter or formation.



# MORSAPACK

PACKAGING INTELLIGENTLY APPLIED

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