

FAT CHILLI LIMITED

TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS

1. Interpretation

1.1 The definitions below apply in these terms and conditions (“Conditions”):

“Company” means Fat Chilli Limited (registered number 06458552) whose registered office address is Horley Green House, Horley Green Road, Claremount, Halifax, West Yorkshire, HX3 6AS;

“Organisation” means the school, nursery charity, or such third party who registers, co-ordinates and runs a Project with the Company via the Company’s website www.fat-chilli.com;

“Customer” means the person who enters into a Contract with the Company under these Conditions to purchase Goods from the Company as specified in the Order.

“Project” means a creative art or gift project registered by the Organisation with the Company.

“Contract” means a contract entered into between the Company and the Customer, for the supply of Goods to the Customer incorporating these Conditions;

“Delivery” means the completion of an Order in accordance with conditions 3.1 and 3.2;

“Artwork” means a drawing, picture or colouring created by; or a photograph taken by / or of the Customer or a child that is dependent or connected with the Customer ;

“Goods” means the goods described in the Order;

“Order” means the order form completed by the Customer and returned to the Company in accordance with condition 2;

“Price” means the retail price for the Goods as set out in the Order as may be amended in accordance with condition 5.1 and any other amounts payable under these Conditions;

2. Formation of the Contract

2.1 Each Order shall be deemed to be an offer by the Customer to buy the Goods from the Company subject to these Conditions.

2.2 No Order placed by the Customer shall be deemed to be accepted by the Company until:

- a) payment of the whole Price has been received in cleared funds by the Company; and
- b) the Company delivers the Goods in accordance with these conditions

when a Contract for the supply and purchase of those Goods on these Conditions will be established.

2.3 It shall be the Customer’s responsibility to ensure that the terms of its Order and any applicable sample or specification supplied by the Company are complete and accurate.

2.4 Order forms and samples are provided by the Company on the basis that no Contract shall come into existence except in accordance with condition 2.2. An order form is valid for a period of 30 days from its date, provided that the Company has not

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- previously withdrawn it, and any price set out in such order form is subject to change in accordance with condition 5.1.
- 2.5 When an Order is returned to the Company by the Organisation the Customer acknowledges that the Company may make a payment of a proportion of the Price as commission to the Organisation.
- 2.6 An Order may be placed direct with the Company by the Customer at any time at the Company's website www.fat-chilli.com.
- 2.7 All descriptions and particulars furnished in price lists, catalogues and other promotional documents issued by the Company or on the Company's website are for information purposes only and although every effort is made to ensure their accuracy, such documents are not intended to be legally binding.
- 2.8 The quantity and description of the Goods shall be those set out in the Order and the Customer shall be responsible for ensuring the accuracy of the Goods before submitting such Order.
- 2.9 Any changes required by the Customer to the quantity (as set out in the Order) may result in a change to the Price (for example, without limitation, additional delivery charge or administration costs incurred by the Company) and any changes to an Order will only be deemed accepted by the Company if confirmed in writing by the Company.
- 2.10 Where Goods are to be supplied to the Customer in accordance with the Customer's specifications the Company shall have no liability whatsoever to the Customer for any defect in the finished item, where such defect is the result of inadequate or incorrect information provided by the Customer on the Order.
- 2.11 No Contract may be changed or cancelled by the Customer except with the agreement in writing of the Company and on terms that the Customer shall indemnify the Company in full against, without limitation, all loss (including loss of profit), costs (including the cost of all labour and materials used), administration costs and expenses incurred by the Company as a result of such changes or cancellation.
- 2.12 Each of the parties acknowledges and agrees that, in entering into the Contract it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to these terms and conditions or not) relating to the subject matter of the Contract.

3. Delivery of the Goods

- 3.1 Subject to condition 3.2 or unless otherwise agreed by the Company, Delivery shall take place at the Organisation's premises.
- 3.2 Goods ordered with the Company via the Company's website www.fat-chilli.com shall be delivered to the Organisation, unless stipulated by the Customer that Delivery is to be made direct to an alternative address provided by the Customer, such Delivery being subject to a delivery charge to cover the cost of direct postage and packaging.
- 3.3 Whilst every care will be taken by the Company to process an Order and Deliver the Goods within the dates provided, any dates given for Delivery are approximate only and the Company shall not be liable for any delay in Delivery howsoever caused.

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- 3.4 Where the Goods are to be delivered in instalments each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.
- 3.5 The quantity of Goods recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Customer on Delivery unless the Customer can provide conclusive evidence proving the contrary.
- 3.6 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Customer gives written notice to the Company of the non-delivery within 7 days of the date when the Goods would in the ordinary course of events have been received.
- 3.7 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note or cash refund for such Goods.
- 3.8 The Customer shall become the owner of the Goods upon Delivery and the Company shall not be liable for any loss or destruction of the Goods after Delivery.

4 Quality of the Goods

The Company shall offer a full refund or replacement for the Goods, or such part of the Goods, if such Goods are delivered to the Organisation in a damaged or defective state or if they are delivered to the Customer (if the Customer has ordered direct) in a damaged or defective state or if they contain any errors caused by the Company during the production process.

5. Price and payment

- 5.1 The Price for the Goods shall be the price set out in the Company's price list published and updated from time to time. The Company's quoted prices are subject to alterations notified by the Company at any time as may be necessary as a result of statutory obligation, any increases in manufacturing costs, or any cause beyond the control of the Company.
- 5.2 Payment shall be made by the Customer of the full price of the Goods as detailed in the order form at the time of submitting the Order. Goods shall not be despatched until full payment in cleared funds has been received by the Company.
- 5.3 The Price for the Goods are currently exclusive of any value added tax.
- 5.4 Unless otherwise stated, the Price for the Goods ordered includes the cost of packaging and Delivery to the Organisation. Where an Order received through the Organisation requests direct Delivery, or where an Order is placed by the Customer direct to the Company an additional charge for postage shall be payable by the Customer.

6 Limitation of Liability

- 6.1 The Company does not exclude or limit liability for its negligence or any negligent omission by the Company which causes the Customer personal injury or death.

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6.2 The Company shall only be liable for any loss or damage suffered by the Customer which is a reasonably foreseeable consequence of a breach of this Agreement. The Company excludes all liability in the event that any loss or damage suffered by the Customer relates to their business activities and in particular the Company excludes all liability for loss of profits or other economic loss arising out of a breach of this contract.

7 Data protection

7.1 The Customer acknowledges and agrees that details of the Customer's name, address and personal data (together with details of the child creating the Artwork) will be processed by and on behalf of the Company in connection with supply of the Goods and/or for providing to the Customer such information on the Company's other products and services that may be requested by the Customer or that in the Company's opinion may be of interest to the Customer. The use of personal information shall be in accordance with the Company's privacy policy which is available on the Company's website www.fat-chilli.com.

7.2 For the avoidance of doubt the Company shall be entitled to provide such personal data to its agents and sub-contractors as is necessary for the performance of the Contract where such agents and/or sub-contractors are assisting the Company in the provision of the Goods to the Customer under the Contract.

7.3 The Customer, for itself and on behalf of the child creating the Artwork, hereby grants to the Company a royalty free license to use the Artwork provided by the Organisation or by the Customer for the purpose of fulfilling the Order.

8 Cancellation

8.1 Without prejudice to any other rights or remedies which the parties may have, the Company may reject the Order if:

- a) the Company has insufficient stock or if certain source materials are unavailable;
- b) the payment supplied with the order is for less than the amount stipulated on the order
- c) the Company is unable to accommodate specific additional requirements requested on the Order by the Customer, that were not contained on the order form or part of the original 'proof card' sample provided

8.2 In the event the Company cancels the Order in accordance with this condition the Customer or the Organisation shall receive confirmation in writing from the Company within 7 days of cancellation.

8.3 Due to the bespoke nature of the Goods, the Company is not able to accept returns of the Goods after Delivery unless the Goods are proved to be defective prior to them leaving the Company's premises.

9 Assignment

The Company may assign the Contract or any part of it to any person, firm or company and without the consent of the Customer. Notification of any such assignment will be sent to the Customer within 21 days of such assignment.

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10 Force Majeure

The Company shall have no liability to the Customer if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, civil commotion, fire, flood, labour disputes or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials provided that, if the event in question continues for a continuous period in excess of 30 working days, the Customer shall be entitled to give notice in writing to the Company to terminate the Contract.

11 General

- 11.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not. Any failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 11.2 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 11.3 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 11.4 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 11.5 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

12 Communications with the Company

- 12.1 Communications to the Company can be made by telephone on 01422 355713. However, communications for important matters and relating to the Contract should be put in writing in accordance with condition 13.1 below
- 12.2 E-mail communications are accepted by the Company at info@fat-chilli.com for general enquiries only and not relating to the Contract.

13 Contacting each other

- 13.1 The Customer should send all notices, letters or any communications relating to the Contract to the Company at Spinners Studios, 14 Spinners Close, Pellon, Halifax, West Yorkshire, HX1 4RT. The Company shall send any communication to the Customer to the address detailed on the Order.

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- 13.2 Communications sent by pre-paid first class post shall be deemed to have been received, two days (excluding Saturdays, Sundays and bank and public holidays) after posting and communications delivered by hand shall be deemed to have been received on the day of delivery.