

## TERMS AND CONDITIONS

These terms and conditions are between KitCreators.com LTD, a company registered in England and Wales, with company registration number 15734284 (**we, us or our**) and you, being the person or entity stated in the Order Form (**you or your**), together the **Parties** and each a **Party**. Together, these terms and conditions and the Order Form (attached to these Terms or the Order Form) form the entire agreement under which we will provide the Goods to you (**Terms**).

### 1. Acceptance

- 1.1 You have requested the Goods set out in the Order Form, and you are taken to accept these Terms by the earlier of:
- (a) submitting a completed Order Form to us via email;
  - (b) instructing us to proceed with the supply of Goods following receipt of the Invoice;
  - (c) making part or full payment of the Price.
- 1.2 Once you have accepted these Terms, these Terms will bind you in respect of any subsequent Order Form (even if they are not attached to the subsequent Order Form), except to the extent these Terms are varied by us.

### 2. Orders

- 2.1 During the Term, you may request us to supply the Goods by submitting a completed Order Form to us via email or by any other process we specify (**Order Request**).
- 2.2 If we accept the Order Request, we will issue you with an invoice setting out the Price (**Invoice**). Once we receive confirmation of your acceptance of our Invoice, whether by your part or full payment of the Price, or by your email confirming acceptance of our Invoice, the Order Request will become a binding Order and we will issue you with an email confirming the details of your Order (**Order Confirmation Email**).
- 2.3 Each Order is subject to, and will be governed by, these Terms and any other conditions expressly set out in the Order. To the extent of any ambiguity or discrepancy between an Order and these Terms, these Terms will prevail.

### 3. Supply of Goods

- 3.1 In consideration of your payment of the Price, we will supply the Goods in accordance with these Terms and all applicable Laws, whether ourselves or through our Personnel.
- 3.2 If we express a time within which the Goods are to be supplied, we will use reasonable endeavours to provide the Goods by such time, but you agree that such time is an estimate only.
- 3.3 All variations to the Goods must be agreed in writing between the Parties and will be priced in accordance with any schedule of rates provided by us, or otherwise as reasonably agreed between the Parties. If we consider that any instructions or directions from you constitute a variation to the nature of the Goods or the scope of our obligations under these Terms, then we will not be obliged to comply with such instructions or directions unless agreed in accordance with this clause.

### 4. Delivery, Title and Risk

- 4.1 Due to the custom nature of our Goods and our manufacturers being based overseas, the manufacturing process can take up to 5 weeks from the date we issue you with an Order Confirmation Email. Once we receive the Goods from our manufacturer, we typically dispatch the Goods within 1 Business Day. Any delivery periods provided are estimates only. The total time from Order Confirmation to delivery may vary and is subject to factors outside our control, including manufacturing and shipping times.
- 4.2 We deliver the Goods using a range of delivery methods. You may need to sign for some deliveries. If neither you nor your authorised representative is at the delivery address to accept delivery, you may elect to have us leave the Goods at your premises or arrange with us for redelivery, at your cost.
- 4.3 Title in the Goods will only pass to you on the date that you pay the Price in full in accordance with these Terms.
- 4.4 Until such time as title in the Goods has passed to you pursuant to clause 4.3, you must not allow any other person to have or acquire any security interest in the Goods, unless with our prior written consent.
- 4.5 Risk in the Goods will pass to you once we have delivered the Goods to the agreed delivery location. You will be responsible for the costs of delivery.
- 4.6 Where Goods are supplied to you without payment in full, you:
- (a) are a bailee of the Goods until title in them passes to you;
  - (b) irrevocably appoint us to be your attorney to do all acts and things necessary to ensure our retention of title to the Goods; and
  - (c) must not allow any other person to have or acquire any security interest in the Goods without our prior written consent.

### 5. Cancellations and Returns

- 5.1 You may cancel your Order Request without charge by providing us with written notice within 48 hours from the time we issue the Order Confirmation Email to you. For the abundance of clarity, an Order may not be cancelled after this time.
- 5.2 We acknowledge that under the Consumer Contracts Regulations 2013, consumers typically have the right to cancel their Order within 14 days of receiving their Goods. However, due to the bespoke nature of our Goods, which are made to your specifications, this right to cancel does not apply to your Order once an Order becomes binding. By placing an Order, you acknowledge and agree that your right to cancel will end once we have begun the manufacturing process of your custom Goods.
- 5.3 Subject to your Consumer Law Rights, you must notify us in writing within 7 days of delivery if any of the Goods are defective, and we may, at our discretion, facilitate either a repair or replacement of the Goods that we are satisfied

were defective at the time of delivery. Where you have provided us with such written notice of any defective Goods:

- (a) you agree to allow us reasonable time to inspect and, if necessary, arrange for the replacement of the Goods. We will use reasonable endeavours to replace the defective Goods within 6 weeks of our receipt of the defective Goods, subject to manufacturing and delivery timelines;
- (b) we are responsible for the costs of replacing the defective Goods, including the costs of return shipping to us and redelivery to you;
- (c) if the defective Goods cannot be replaced, we will refund you any amounts that you have paid for the defective Goods. We will make any refunds due to you as soon as possible, and in any event, your refund will be made within 14 days from the day on which we receive the relevant Goods back from you;
- (d) if you fail to notify us of any defective Goods within the timeframe specified in this clause, you will be deemed to have accepted the Goods and we will not be liable for any claims in respect of those Goods; and
- (e) this clause sets out your sole and exclusive remedy for defective Goods. To the maximum extent permitted by law, we exclude all other warranties, conditions, and remedies with respect to defective Goods, whether express or implied.

## 6. Price and Payment

- 6.1 You agree to pay us the Price and any other amounts due under these Terms in accordance with the payment terms as set out in the Invoice (**Payment Terms**).
- 6.2 You will not be entitled to any portion of the Goods until the Price has been paid in full by you. If payment has not been received in accordance with the Payment Terms, we reserve the right to cancel your Order Request.
- 6.3 **VAT:** All amounts payable by you under these Terms are exclusive of amounts in respect of any taxes, including sales, use or value added tax chargeable from time to time (**VAT**), unless otherwise stated. Where any taxable supply for VAT purposes is made under these Terms by us to you, you agree, on receipt of a valid VAT invoice from us, to pay to us such additional amounts in respect of VAT as are chargeable on the supply of the Goods at the same time as payment is due for the supply of the Goods.

## 7. Intellectual Property

- 7.1 All intellectual property developed, adapted, modified or created by or on behalf of us or our Personnel, whether before or after the Commencement Date, will at all times vest, or remain vested, in us. This does not include any logos, badges or other designs provided by you for the purpose of customising the Goods (**Your IP**). You grant us a limited licence to use Your IP solely for the purpose of manufacturing and delivering the Goods you have ordered.

7.2 You represent and warrant that:

- (a) you have all the necessary rights and licences to grant us a licence to Your IP, as contemplated by this Agreement; and
- (b) our use of Your IP does not, and will not, infringe the rights of any third party (including Intellectual Property Rights).

7.3 As between the Parties, any intellectual property created in the supply of the Goods will at all times vest, or remain vested, in us upon creation. To the extent that ownership of such intellectual property rights in any new intellectual property and/or improvements to the new intellectual property or our intellectual property do not automatically vest in us, you agree to do all things necessary or desirable to assure our title to such rights.

7.4 Nothing in these Terms constitutes a transfer or assignment of any intellectual property rights.

7.5 This clause 7 will survive termination or expiry of these Terms.

## 8. Confidential Information

8.1 Subject to clause 8.2, each Party must (and must ensure that its Personnel) keep confidential, and not use (except to perform its obligations under these Terms) or permit any unauthorised use of, information provided by the other Party, including information about these Terms and the other Party's business and operations.

8.2 Clause 8.1 does not apply where the disclosure is required by Law or the disclosure is to a professional adviser in order to obtain advice in relation to matters arising in connection with these Terms and provided that the disclosing Party ensures the adviser complies with the terms of clause 8.1.

8.3 This clause 8 will survive the termination of these Terms.

## 9. Privacy

9.1 Each Party agrees to comply with all Applicable Data Protection Law with respect to the transfer or processing of any Personal Data in connection with these Terms.

9.2 Where you transfer any Personal Data to us in connection with these Terms, you represent and warrant that you have all rights and consents that are necessary to transfer such Personal Data to us, and our use of such Personal Data to supply the Goods will not infringe the privacy rights of any third party.

## 10. Liability

10.1 Nothing in these Terms limit any Liability which cannot legally be limited, including Liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and
- (d) defective products under the Consumer Protection Act 1987.

10.2 Subject to clause 10.1, but despite anything to the contrary, to the maximum extent permitted by Law:

- (a) if you are not a 'consumer' as defined in the Consumer Rights Act 2015, neither Party will be liable for any Consequential Loss;
- (b) where you are a 'consumer' as defined in the Consumer Rights Act 2015, and you use the Goods for any commercial, business or re-sale purpose, we will have no liability to you for any loss of profit, loss of business, loss of data, business interruption, or loss of business opportunity;
- (c) a Party's liability for any liability under these Terms will be reduced proportionately to the extent the relevant liability was caused or contributed to by the negligent or unlawful acts or omissions of, or breach of these Terms, by the other Party; and
- (d) our aggregate liability for any Liability arising from or in connection with these Terms will be limited 100% of the Price.
- 10.3 We have given commitments as to the compliance of the Goods with these Terms and applicable Laws in clause 3.1. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the maximum extent permitted by law, excluded from these Terms.
- 10.4 This clause 10 will survive the termination or expiry of these Terms.
- 11. Term and Termination**
- 11.1 These Terms will commence on the Commencement Date, and will continue until the Goods are supplied to you in accordance with these Terms (as determined by us, acting reasonably) (**Term**).
- 11.2 These Terms will terminate immediately upon written notice by a Party (**Non-Defaulting Party**) if:
- (a) the other Party (**Defaulting Party**) breaches a material term of these Terms and that breach has not been remedied within 10 Business Days of the Defaulting Party being notified of the breach by the Non-Defaulting Party; or
- (b) the Defaulting Party goes bankrupt, insolvent or is otherwise unable to pay its debts as they fall due.
- 11.3 Upon expiry or termination of these Terms:
- (a) we will immediately cease providing the Goods;
- (b) any payments made by you to us for Goods already supplied are not refundable to you;
- (c) you are to pay for all Goods supplied prior to termination, including Goods which have been supplied and have not yet been invoiced to you, and all other amounts due and payable under these Terms;
- (d) by us pursuant to clause 11.2, you also agree to pay us our additional costs, reasonably incurred, and which arise directly from such termination (including recovery fees);
- (e) we may retain your documents and information (including copies) to the extent required by Law or pursuant to any information technology back-up procedure, provided that we handle your information in accordance with clause 7; and
- (f) you agree to promptly return (where possible), or delete or destroy (where not possible to return), any documentation, information or material provided to you by us that is in your possession or control.
- 11.4 Termination of these Terms will not affect any rights or liabilities that a Party has accrued under it.
- 11.5 This clause 11 will survive the termination or expiry of these Terms.
- 12. General**
- 12.1 **Amendment:** We may, at any time and at our discretion, vary these Terms by publishing the varied terms on our website. The Terms that apply will be the ones that you accepted in accordance with clause 1.1, at the time of placing each relevant Order.
- 12.2 **Assignment:** Subject to clauses 12.3 and 12.13, a Party must not assign, novate or deal with the whole or any part of its rights or obligations under these Terms without the prior written consent of the other Party (such consent is not to be unreasonably withheld).
- 12.3 **Assignment of Debt:** You agree that we may assign or transfer any debt owed by you to us, arising under or in connection with these Terms, to a debt collector, debt collection agency, or other third party.
- 12.4 **Contracts (Rights of Third Parties) Act 1999:** Notwithstanding any other provision of these Terms, nothing in these Terms confers or is intended to confer any right to enforce any of its terms on any person who is not a Party to it.
- 12.5 **Disputes:** A Party may not commence court proceedings relating to any dispute arising from, or in connection with, these Terms (**Dispute**) without first meeting a representative of the other Party within 10 Business Days of notifying that other Party of the Dispute. If the Parties cannot resolve the Dispute at that meeting, either Party may refer the Dispute to mediation administered by The Centre for Effective Dispute Resolution.
- 12.6 **Entire Agreement:** These Terms contain the entire understanding between the Parties and the Parties agree that no representation or statement has been made to, or relied upon by, either of the Parties, except as expressly stipulated in these Terms, and these Terms supersede all previous discussions, communications, negotiations, understandings, representations, warranties, commitments and agreements, in respect of its subject matter.
- 12.7 **Force Majeure:** Neither Party will be liable for any delay or failure to perform their respective obligations under these Terms if such delay or failure is caused or contributed to by a Force Majeure Event, provided that the Party seeking to rely on the benefit of this clause:
- (a) as soon as reasonably practical, notifies the other Party in writing details of the Force Majeure Event, and the extent to which it is unable to perform its obligations; and

- (b) uses reasonable endeavours to minimise the duration and adverse consequences of the Force Majeure Event.

Where the Force Majeure Event prevents a Party from performing a material obligation under these Terms for a period in excess of 60 days, then the other Party may by notice terminate these Terms, which will be effective immediately, unless otherwise stated in the notice. This clause will not apply to a Party's obligation to pay any amount that is due and payable to the other Party under these Terms.

- 12.8 **Governing Law:** These Terms are governed by the laws of England and Wales. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in England and Wales and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.
- 12.9 **Intellectual Property:** Nothing in these Terms constitutes a transfer or assignment of one Party's Intellectual Property Rights to the other Party.
- 12.10 **Notices:** Any notice given under these Terms must be in writing addressed to the addresses set out in these Terms, or the relevant address last notified by the recipient to the Parties in accordance with this clause. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.
- 12.11 **Publicity:** Despite clause 7, with your prior written consent, you agree that we may advertise or publicise the broad nature of our supply of the Goods to you, including on our website or in our promotional material.
- 12.12 **Relationship of Parties:** These Terms are not intended to create a partnership, joint venture, employment or agency relationship between the Parties.
- 12.13 **Subcontracting:** We may subcontract the supply of any part of the Goods without your prior written consent. We agree that any subcontracting does not discharge us from any liability under these Terms and that we are liable for the acts and omissions of our subcontractor.

### 13. Definitions

In these Terms, unless the context otherwise requires, capitalised terms have the meanings given to them in the Invoice, and:

**Applicable Data Protection Law** means the laws and regulations applicable to the processing of Personal Data by the Parties in connection with these Terms, including without limitation, the Data Protection Act 2018.

**Business Day** means a day on which banks are open for general banking business in England, excluding Saturdays, Sundays and public or bank holidays.

**Commencement Date** means the date these Terms are accepted in accordance with clause 1.1.

**Consequential Loss** includes any consequential loss, special or indirect loss, real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise. However, your obligation to pay us the Price will not constitute "Consequential Loss".

**Consumer Law Rights** means any legislation, including the Consumer Rights Act 2015, and similar consumer protection laws and regulations, that confer consumers with rights, warranties, guarantees and remedies relating to the supply of the Goods by us to you which cannot be excluded, restricted or modified.

**Goods** means the goods to be supplied as set out in the Invoice, as adjusted in accordance with these Terms.

**Force Majeure Event** means any event or circumstance which is beyond a Party's reasonable control including but not limited to, acts of God including fire, hurricane, typhoon, earthquake, landslide, tsunami, mudslide or other catastrophic natural disaster, civil riot, civil rebellion, revolution, terrorism, insurrection, militarily usurped power, act of sabotage, act of a public enemy, war (whether declared or not) or other like hostilities, ionising radiation, contamination by radioactivity, nuclear, chemical or biological contamination, any widespread illness, quarantine or government sanctioned ordinance or shutdown, pandemic (including COVID-19 and any variations or mutations to this disease or illness) or epidemic.

**Law** means all applicable laws, regulations, codes, guidelines, policies, protocols, consents, approvals, permits and licences, and any requirements or directions given by any government or similar authority with the power to bind or impose obligations on the relevant Party in connection with these Terms or the supply of the Goods.

**Liability** means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), misrepresentation, restitution, indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party or a Party to these Terms or otherwise.

**Personal Data** has the meaning given to it in the Data Protection Act 2018.

**Personnel** means, in respect of a Party, any of its employees, consultants, suppliers, subcontractors or agents, but in respect of you, does not include us.

**Price** means the price set out in the Invoice, as adjusted in accordance with these Terms.