

CHEATWELL GAMES TERMS OF BUSINESS

These Terms governing all contracts for the sale or supply of goods by Masquerade Limited trading as Cheatwell Games (the Company).

DEFINITIONS

'Buyer' means the customer of the Company.

'Contract' means any contract for the sale of goods by the Company to the Buyer.

'goods' means any goods forming the subject of a Contract including parts and components of or materials incorporated in them.

The headings are for convenience only and shall not affect construction of these Terms.

1. FORMATION

(a) No Contract shall come into existence until the Buyer's order is accepted by the earliest of:

- the Company's written acceptance;
- delivery of the goods; and
- the Company's invoice

(b) These Terms shall be incorporated in the Contract to the exclusion of any terms or conditions stipulated or referred to by the Buyer.

(c) No variation or amendment of these Terms or oral promise or commitment related to it shall be valid unless committed to writing and signed by or on behalf of both parties.

(d) The Buyer shall not assign the benefit of the contract without the Company's prior written consent.

2. PRICE

Prices are in accordance with the Company's current price list and exclusive of Value Added Tax. Except where stated by the Company to the contrary the price at the time of the Buyer's order includes the Company's standard packaging and free delivery within the UK subject to a carriage paid minimum order value set out in its price list. The cost for any additional packaging required by the Buyer and delivery upon the Buyer's special instructions or outside the UK shall be charged in addition to the price which cost will be quoted on request or stated on the Company's order acknowledgment.

3. DELIVERY

(a) The goods are deemed to be delivered to the Buyer when the Company makes them available to the Buyer or any agent of the Buyer or any carrier (who shall be the Buyer's agent whoever pays its charges) at the Company's premises or other delivery point agreed by the Parties.

(b) Risk in the goods passes when they are delivered in accordance with clause 3 (a).

(c) The Company may at its discretion deliver the goods by instalments in any sequence.

(d) Where the goods are delivered by instalments, no default or failure by the Company in respect of any one or more instalments shall vitiate the Contract in respect of the goods previously delivered or undelivered goods or entitle Buyer to withhold any payment due under this Contract.

(e) The Company may deliver to the Buyer and the Buyer shall accept in satisfaction of the Contract a lesser number than the number of goods ordered.

(f) While the Company shall use reasonable endeavours to deliver the goods by the quoted delivery date any dates quoted by the Company are approximate only and shall not form part of the Contract and the Buyer acknowledges that in the performance expected of the Company no regard has been paid to any quoted delivery dates.

(g) If the Buyer fails:

- to take delivery of the goods or any part of them on the due date; and
- to provide any instructions or documents required to enable the goods to be delivered on the due date,

the Company may on giving written notice to the Buyer store or arrange for the storage of the goods, and on the service of the notice:

- risk in the goods shall pass to the Buyer;
- delivery of the goods shall be deemed to have taken place; and
- the Buyer shall pay to the Company all costs and expenses including storage, any redelivery and insurance charges arising from its failure.

(h) The Company shall not be liable for any penalty, loss, injury, damage or expense arising from any delay or failure in delivery or performance from any cause at all nor shall any such delay or failure entitle the Buyer to refuse to accept any delivery or performance of or repudiate the Contract.

4. CLAIMS NOTIFICATION

(a) Any claim for non-delivery of goods shall be notified in writing by the Buyer to the Company within 10 days of the delivery date notified by the Company

(b) Any claim that any goods have been delivered damaged, are not of the correct quantity or do not comply with their description shall be notified by the Buyer to the Company within five days of their delivery. In the case of obvious damage the Buyer must record the fact on the carrier's receipt form. Where goods are collected from the Company any obvious damage must be reported immediately.

(c) Any alleged defect or shortage shall be notified by the Buyer to the Company within five days of the delivery of the goods or in the case of any defect which is not reasonably apparent on inspection within five days of the defect coming to the Buyer's attention and in any event within one month from the date of delivery;

(d) Any claim under this condition must be in writing and must contain full details of the claim including the identity of any parts allegedly missing or defective

(e) The Company shall be afforded reasonable opportunity and facilities to investigate any claims made under this condition and the Buyer shall, if so requested in writing by the Company, promptly return any goods the subject of any claim and any packing materials securely packed and carriage paid to the Company for examination.

(f) The Company shall have no liability with regard to any claim in respect of which the Buyer has not complied with the claims procedures in these Terms.

5. EXTENT OF LIABILITY

(a) The Company shall have no liability to the Buyer for any loss (including loss of profit or other economic loss (direct or indirect), indirect or consequential loss) or damage of any nature (howsoever caused) or loss or damage (contractual, tortious, breach of statutory duty or otherwise) arising from any breach of any express or implied warranty or condition of the Contract or any negligence, breach of statutory or other duty on the part of the Company or in any other way out of or in connection with the performance or purported performance of or failure to perform the Contract except:

- for death or personal injury resulting from the Company's negligence;
- fraudulent misrepresentation; and
- as expressly stated in these Terms.

(b) The goods are supplied on the terms that the Buyer has satisfied itself of their suitability for its purpose. The Buyer acknowledges that all specifications and details in catalogues, quotations and acknowledgements of order or similar documents or by word of mouth are approximate only and do not form part of the contract.

(c) If the Buyer notifies in writing to Company under Clause 4 (CLAIMS NOTIFICATION) and if required by the Company returns the goods to the Company at its own expense then the Company shall, at its option:

- replace with similar goods any goods which are missing, lost or damaged
- or do not comply with their description, or allow the Buyer credit for their invoice value
- and pay the reasonable cost of returning the goods;

(d) The delivery of any replacement goods shall be at the Company's premises or other delivery point specified for the original goods.

(e) Where the Company is liable in accordance with this condition in respect of only some or part of the goods the Contract shall remain in full force and effect in respect of the other or other parts of the goods and no set-off or other claim shall be made by the Buyer against or in respect of such other or other parts of the goods.

(f) The Company shall not be liable where any goods, the price of which does not include carriage, are lost or damaged in transit and all claims by the Buyer shall be made against the carrier. Replacements for such lost or damaged goods will, if available, be supplied by the Company at the prices ruling at the date of despatch.

(g) In no circumstances shall the liability of the Company to the Buyer under these terms exceed the invoice value of the goods.

6. RETENTION OF TITLE

(a) Notwithstanding the earlier passing of risk, title in the goods shall remain with the Company and shall not pass to the Buyer until the amount due under the invoice for them (including interest and costs) has been paid in full.

(b) Until title passes the Buyer shall hold the goods as bailee for the Company and shall store or mark them so that they can at all times be identified as the property of the Company.

(c) The Company may at any time before title passes and without any liability to the Buyer:

repossess and use or sell all or any of the goods and by doing so terminate the Buyer's right to use, sell or otherwise deal in them; and for that purpose (or determining what if any goods are held by the Buyer and inspecting them) enter any premises of or occupied by the Buyer.

(d) The Company may maintain an action for the price of any goods notwithstanding that title in them has not passed to the Buyer.

7. PAYMENT

(a) Payment must be in advance in full before the goods will be dispatched unless the Company agrees in writing to other terms of payment.

(b) Subject to the completion of a Company Credit application form and receipt of satisfactory trade, bankers and other references as may be required, the Buyer may agree in writing to grant to the Buyer credit terms.

In the absence of other terms of payment agreed in writing, payment in full is to be made within 30 days after delivery.

(c) No discount or allowance will be made unless stated by the Company in writing.

(d) The Buyer shall pay interest on all sums due on any overdue amount (whether before or after judgment) on a daily basis at the rate of 1.5% per month above the base rate quoted from time to time by National Westminster Bank Plc.

(e) The Company may appropriate any payment made by the Buyer to such outstanding debt as the Company in its absolute discretion decides notwithstanding any purported appropriation to the contrary by the Buyer.

(f) The Company may at its discretion suspend or terminate the supply of any goods if the Buyer fails to make any payment when and as due or otherwise defaults in any of its obligations under the Contract or becomes insolvent, has an administrative receiver appointed of its business or is compulsorily or voluntarily wound up or ceases or threatens to cease trading or the Company bona fide believes that any of those events may occur, and in case of termination may forfeit any deposit paid.

8. FORCE MAJEUR

The Company shall not be liable for any failure in the performance of any of its obligations under any contract caused by factors outside its control. If such circumstances continue for a continuous period of more than 3 months, either party may terminate the contract by written notice to the other party.

9. WAIVER

No waiver of any of the Company's rights under the contract shall be effective given in writing the Company. A waiver shall apply only to the specific circumstances in which it is given and shall be without prejudice to the enforcement of the Company's rights in relation to different circumstances or the recurrence of similar circumstances.

10. NOTICES

(a) Any notice given under these terms shall be in writing and may be served:

- personally; or
- by registered or recorded delivery mail.

(b) The Company's address for the service of notice is Unit E2 Heritage Business Park, Heritage Way, Gosport, Hants. PO12 4BG and the Buyer's address shall be that notified to the Company with its order or in either case such other address as one party specifies by notice to the other

(c) A notice shall be deemed to have been served:

- if it was served in person, at the time of service; or
- if it was served by post, 48 hours after it was posted.

(d) No notices may be served by email or facsimile transmission.

11. THIRD PARTIES

Pursuant to s 1(2)(a) of the Contracts (Rights of Third Parties) Act 1999 the parties intend that no term of this agreement may be enforced by any person who is not a party to this agreement

12. CONSTRUCTION AND JURISDICTION

(a) The Contract shall be governed by English law and the Buyer consents to the exclusive jurisdiction of the English Courts in all matters regarding it except to the extent that the Company invokes the jurisdiction of the courts of any other country..

(b) The Company shall have the right at any time by written notice to reduce the scope or extend any of these Terms.