



JOHN C. BROW Ltd.,
1 PRINCE REGENT ROAD
BELFAST, N. IRELAND
BT5 6SA
T : +44 (0) 28 9079 8171
F : +44 (0) 28 9040 1095
E : sales@browpack.com

POLYTHENE EXTRUDERS, FILMS, BAGS, SHEETS
BAKERY PACKAGING, FILMS, TRAYS & CONTAINERS
PAPER, FOIL & PLASTIC FOOD PACKAGING
CATERING DISPOSABLES, HYGIENE PRODUCTS

ONLINE CATALOGUE
browpack.com

JOHN C. BROW LTD – TERMS AND CONDITIONS OF SALE

1. These conditions shall be deemed to be incorporated in all contracts with the Company for the sale of its Goods. In the case of any inconsistency with an order, letter or formal contract sent by the Buyer and the Company, whatever may be their respective dates, the provisions of these Conditions shall prevail. If in any particular case any of these Conditions shall be held to be invalid or shall not apply to the contract the other Conditions shall continue in full force and effect.
2. **Interpretation**
 - 2.1 In these Conditions
“BUYER” means a person who accepts a quotation of the Company for the sale of the Goods or whose order for the Goods is accepted by the Company;
“GOODS” means the goods (including any installment of the goods or any parts of them) which the Company is to supply in accordance with these Conditions;
“COMPANY” means John C. Brow Limited whose registered office is at 1 Prince Regent Road, Belfast, BT5 6SA;
“CONDITIONS” means the standard terms and conditions of sale set out in this document;
“CONTRACT” means the contract for the purchase and sale of the Goods;
“WRITING” means telex, cable, facsimile transmission, electronic mail and any comparable means of communication.
 - 2.2 Any reference in the Conditions to any provision of statute shall be constructed as a reference that provision as amended, re-enacted, or extended at the relevant time.
 - 2.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.
3. **Basis of the sale**
 - 3.1 The Company shall sell, and the Buyer shall purchase the Goods in accordance with any quotation of the Company which is accepted by the Buyer, or any order of the Buyer which is accepted by the Company, subject in either case to these Conditions, which shall govern the Contract to the exclusion of and other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is purported to be made, by the Buyer.
 - 3.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Company.
 - 3.3 The Company’s employees or agents are not authorised to make any representation concerning the Goods unless confirmed by the Company in Writing. In entering into the Contract, the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.
 - 3.4 Any advice or recommendation given by the Company 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 the Company is followed or acted upon entirely at the Buyers own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.
 - 3.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or any other document or information issued by the Company shall be subjected to correction without any liability on the part of the Company.
4. **Orders and Specifications**
 - 4.1 No order submitted by the Buyer shall be deemed to be accepted by the company unless and until confirmed in writing by the Company’s authorised representative.
 - 4.2 The buyer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification or art work) submitted by the Buyer, and for giving the company necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.
 - 4.3 The quantity, quality and description of and any specification (and/art work) for the Goods shall be those set out in the Company’s quotation (if accepted by the Buyer) or the Buyer’s order (if accepted by the Company).
 - 4.4 If the Goods are to be manufactured or any process is to be applied to the Goods by the Company in accordance with any specification (and/art work) submitted by the Buyer, the buyer shall indemnify the Company against all loss, damages, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Company’s use of the Buyers specification (and/art work).

- 4.5 The company reserves the right to make any changes in the specification (and/art work) of the Goods which are required to conform with any applicable statutory or EU requirements, or where the Goods are to be supplied to the Company's specification, which do not materially affect their quality or performance.
- 4.6 No order which has been accepted by the Company may be canceled by the Buyer except with the agreement in Writing of the Company and on terms that the buyer shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation.
- 4.7 The Company may submit proofs or any subject matter of this agreement for the Buyers approval and shall not be liable for any error not corrected by the Buyer. Buyer's corrections (including alterations in style, or compositions and changes in style, type or layout when not specified or expressly left to the discretion of the Company) and the costs of additional proofs in relation thereto shall be an extra charge.
- 4.8.1 In the case of machine-readable codes or symbols the Company shall print the same as specified or approved by the Buyer in accordance with generally accepted standards and procedures.
- 4.8.2 The Buyer shall be responsible for satisfying himself that the code or symbol will read correctly on the equipment likely to be used by those for whom the code or symbol is intended.
- 4.8.3 The Buyer shall indemnify the Company against any claims by any party resulting from the code or symbols not reading or not reading correctly for any reason whatsoever.

5. Price of the Goods

- 5.1 The price of the Goods shall be the Company's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Company's published price list current at the date of acceptance of the order. Where the Goods are supplied for export from the United Kingdom, the Company's published export price list shall apply. All prices quoted are valid for 30 days only and or until earlier acceptance by the Buyer (subject to clause 5.2), after which time they may be altered by the Company without giving notice to the Buyer.
- 5.2 The Company reserves the right, by giving notice (except in the case of export when notice may be given contemporaneously with delivery) to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in cost to the Company which is due to any factor beyond control of the Company (such as, without limitation, and foreign exchange fluctuation, currency regulation, alteration of duties, significant increases in the cost of labour, materials or any other costs to manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instruction of the buyer to give the Company adequate information or instructions.
- 5.3 Except as otherwise stated under the terms of any quotation or in any price list of the Company and unless otherwise agreed in writing between the Buyer and the Company, all prices are given by the Company on an ex works basis, and where the Company agrees to deliver the Goods otherwise than at the Company's premises, the Buyer shall be liable to pay the Company's charges for transport, packaging and insurance.
- 5.4 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Company.
- 5.5 The cost of the pallets and returnable containers will be charged to the Buyer in addition to the price of the goods, but full credit will be given to the Buyer provided they are returned undamaged to the Company before the due payment date.

6. Terms of Payment

- 6.1 Subject to any special terms agreed in writing between the buyer and the Company, the Company shall be entitled to invoice the buyer for the price of the Goods on or at any time after the delivery of the Goods, unless the Goods are to be collected by the Buyer or the buyer wrongfully fails to take delivery (or for any reason whatsoever is unable to take delivery) of the Goods, in which event the Company shall be entitled to invoice the Buyer for the price at any time after the Company has notified the buyer that the Goods are ready for collection (as the case may be) the Company has tendered delivery of the Goods.
- 6.2 Advance Payment invoices will be paid by the Buyer before the goods are produced or dispatched. Cash Sales and Cash on Delivery invoices will be paid by the Buyer on receipt of the goods, unless a third-party carrier is used, in which case payment will be made by the buyer before the goods are dispatched. If the Company has provided Credit facilities, pre-approved in writing by the Company, the buyer shall pay the price of the Goods within **30 days** of the date of the Company's invoice, unless otherwise agreed in writing, and the Company shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only on request.
- 6.3 If the buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to: -
 - 6.3.1 cancel the contract or suspend any further deliveries to the Buyer;
 - 6.3.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Buyer; and
 - 6.3.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of three per cent (3%) per annum above the Danske Bank base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
 - 6.3.4 recover from the Buyer all costs and expenses incurred by the Company (including legal fees and outlays) in recovering payment due by the Buyer to the Company.

7. Delivery

- 7.1 Delivery of the goods shall be made by the Buyer collecting the Goods at the Company's premises at any time After the Company has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Company, by the Company delivering the Goods to that place.
- 7.2 Any dates quoted for the delivery of the Goods are approximate only and the Company shall not be liable for any delay in the delivery of the Goods however caused. Time for delivery shall not be of the essence for the Contract unless previously agreed by the company in writing. The Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 7.3 Where the goods are to be delivered in installments, each delivery shall constitute a separate Contract and failure by the company to deliver any one or more of the installments in accordance with these Conditions or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the Contract as whole as repudiated.
- 7.4 If the Company fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Company's reasonable control or the buyer's fault, and the Company is accordingly liable to the Buyer, the Company's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 7.5 If the Buyer fails to take delivery of the Goods or fails to give the company adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Company's fault) then without prejudice to any right or remedy available to the Company, the Company may: -
 - 7.5.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
 - 7.5.2 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.
- 7.6 The Company will use its best endeavours to produce and deliver the quantity and specification of Goods ordered, but every Contract and delivery is subject to the margins and tolerances (plus or minus 10%), customary in the trade and no guarantee or warranty is given or implied on the part of the Company which is incompatible with this provision. Quantity variation will be charged pro rata.

8. Risk and property

- 8.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
 - 8.1.1 In the case of Goods to be delivered at the Company's premises, at the time when the Company notifies the buyer that the goods are available for collection; or
 - 8.1.2 in the case of Goods to be delivered otherwise than at the Company's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.
- 8.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these conditions, the property in the Goods shall not pass to the Buyer until the Company has received in cash or cleared funds payment in full of the price of the Goods, all other goods agreed to be sold buy the Company to the Buyer and all other amounts howsoever arising due and owing to the Company by the buyer for which payment is then due.
- 8.3 Until such time as the property in the Goods passes to the Buyer, the buyer shall hold the Goods as the Company's fiduciary agent and bailee and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Company's property, but shall be entitled to re-sell or use the Goods in the ordinary course of its business.
- 8.4 Until such time as the property in the Goods passes to the Buyer (and provided that the Goods are still in existence and have not been resold), The Company shall be entitled at any time to require the Buyer to deliver up the Goods to the Company and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 8.5 Where the Goods are manufactured into new objects or are mixed with other goods or if the Goods in any way whatsoever become a constituent of other goods before title has passes under the Conditions of Sale title to the Goods shall remain with the Company until title therein has passed pursuant to these Conditions of Sale and in addition, the Company shall have a right of joint property in other goods which shall arise with effect from the moment at which the Goods supplied by the Company are converted into the new goods or are mixed with or become a constituent of other goods.
- 8.6 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company, but if the Buyer so all moneys owing by the Buyer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.
- 8.7 All blocks, rubbers, printing plates, sketches, other original artwork and proofs produced by the Company in Connection with the Goods shall remain the property of the Company unless paid for by the Buyer. The Company reserves the right to retain all such blocks, rubbers, printing plates, sketches, other original work and proofs until all sums due and owing by the Buyer to the Company on foot of any account whatsoever have been paid to the Company.

9. Warranties and liability

- 9.1 Subject to the conditions set out below the Company warrants that the Goods will correspond with their specification at the time of delivery.
- 9.2 The above warranty is given by the Company subject to the following conditions:

- 9.2.1 the Company shall be under no liability in respect of any defect in the Goods arising from and drawing, design or specification supplied by the Buyer;
- 9.2.2 the Company shall be under no liability in respect of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Company's approval;
- 9.2.3 the Company shall have no liability under the above warranty (or any other warranty, condition or guarantee) if the total price of the Goods has not been paid by due date for payment;
- 9.2.4 the above warranty does not extend to parts, materials or equipment not manufactured by the Company, 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 the Company.
- 9.3 Subject as expressly provided in these Conditions, and except where the Goods are sold to a person as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 9.4 Where the Goods are sold under a consumer transaction the statutory rights of the Buyer are not affected by these Conditions.
- 9.5 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 specifications shall (whether or not delivery is refused by the Buyer) be notified to the Company within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) immediately after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Company accordingly, the Buyer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 9.6 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 the Company in accordance with these Conditions, the Company shall be entitled to replace the Goods (or the part in question) free of charge or, at the Company's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price) but the Company shall have no further liability to the Buyer.
- 9.7 Except in respect of death or personal injury caused by the Company's negligence, the company shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or any 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 the Company, its employees or agents, or otherwise) which arise out of or in connection with the supply of goods or their use or resale by the Buyer, and the entire liability of the Company under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.
- 9.8 The Company shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:
 - 9.8.1 Act of god, explosion, flood, tempest, fire or accident;
 - 9.8.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - 9.8.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - 9.8.4 import or export regulations or embargoes;
 - 9.8.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or a third party);
 - 9.8.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - 9.8.7 power failure or breakdown in machinery.

10. Insolvency of Buyer

- 10.1 This clause applies if:
 - 10.1.1 the Buyer makes any volunteer 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
 - 10.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
 - 10.1.3 the Buyer ceases or threatens to cease, to carry on business; or
 - 10.1.4 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 10.2 If this clause applies then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

11. Export Terms

- 11.1 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 11 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.
- 11.2 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of

the Goods into the country of destination and for the payment of any duties on them.

- 11.3 The Buyer shall be responsible for arranging for testing and inspection of the Goods at the Company's premises before shipment. The Company shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

12. General

- 12.1 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.
- 12.2 No waiver by the Company of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 12.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder if the provision in question shall not be affected.
- 12.4 The Contract shall be governed by the laws of Northern Ireland, and the Buyer agrees to submit to the exclusive jurisdiction of the Northern Ireland courts.

Last Revision March 2019