

# Terms and Conditions: JLA Clean



## 1. INTERPRETATION

### 1.1 Definitions.

In these Conditions, the following definitions apply:

"Agreement": the contract between the Supplier and the Customer for the purchase of the Products and/or Services, as set out in the Confirmation and in accordance with these Conditions.

"Business Day": a day (other than a Saturday, Sunday or public holiday in England and Wales) when banks in London are open for business.

"Commencement Date": the date set out in the Confirmation.

"Conditions": the terms and conditions set out in this document as varied by the Supplier from time to time.

"Confirmation": the Supplier's written confirmation of the Customer's Order for the Products and, if relevant, the Services and Equipment, as set out overleaf.

"Customer": as set out in the Confirmation.

"Delivery": the delivery of the Equipment and the Products.

"Equipment": if relevant, the dosing pump(s) provided on loan to the Customer free of charge.

"Force Majeure Event": has the meaning given in clause 11.

"Minimum Order Value": such minimum order value for Products as agreed in the Confirmation (or in writing by the Supplier at a later date).

"Order": the Customer's order for the supply of the Products, which may take the form of an order form, the Customer's written acceptance of the Supplier's quotation or an oral request for the purchase of Products, as the case may be.

"Products": the detergent products set out in the Confirmation or as agreed in writing between the Supplier and the Customer from time to time.

"Relevant Index": an official index to measure the change in the cost of goods or services being either the Retail Price Index ("RPI") or such other index as deemed appropriate by the Supplier from time to time.

"Services": the maintenance of the Equipment to ensure its continued fitness for purpose.

"Supplier": JLA Limited (registered in England and Wales with company number 01094178) and any of its group companies, successors or assignees.

## 2. BASIS OF AGREEMENT

2.1 The Customer is entering into the Agreement and dealing with the Supplier as a business not as a consumer, and all dealings between the Supplier and the Customer shall be on the basis that the Customer is acting as a business.

2.2 The Customer wishes to purchase Products and may purchase Services and obtain the Equipment from the Supplier. These Conditions apply to the Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.3 The Confirmation constitutes the acceptance by the Supplier of the Order, in accordance with these Conditions at which point the Agreement shall come into existence. Any quotation for the Products (and, if relevant, the Equipment and Services) given by the Supplier shall not constitute an offer.

2.4 The Agreement constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Agreement.

2.5 Any descriptions or illustrations contained in the Supplier's website, brochures or advertising are produced for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Agreement or have any contractual force.

2.6 The person(s) who signs this Agreement on behalf of the Customer warrant(s) that they have the appropriate and necessary authority to do so and by signing are entering the Customer into a binding contract with the Supplier on the terms of the Agreement. Where two or more persons are named as the Customer, their liability shall be joint and several.

## 3. TERM AND TERMINATION

3.1 The Agreement shall begin on the Commencement Date, and shall continue for the period set out in the Confirmation (the "Initial Term").

3.2 At the end of the Initial Term, the Agreement shall continue on an annual basis, with each 12 month period being an "Extended Term" (and the Initial Term and each Extended Term being a "Term"), unless and until terminated in accordance with these Conditions. All outstanding payments due for the relevant Term shall become immediately payable on termination for whatever reason.

3.3 The Customer and the Supplier shall each have the right to terminate this Agreement without reason upon 3 months' prior written notice, such notice expiring at the earliest at the end of the current Term.

## 4. DELIVERY

4.1 The Supplier shall deliver the Equipment to the location set out in the Confirmation or such other location as the parties may agree ("Delivery Location") at any time after the Supplier notifies the Customer that the Equipment is ready for delivery. Delivery of the Equipment shall be completed on arrival at the Delivery Location.

4.2 The Supplier shall install and commission the Equipment at the Delivery Location and the Customer shall ensure that the Supplier has access to such areas, services and items as it requires for the installation and commissioning of the Equipment. The Supplier shall not be responsible for any consequential or indirect loss caused by its installation and/or commissioning of the Equipment and any liability of the Supplier in relation to such installation and commissioning shall be limited in accordance with clause 10.

4.3 The Supplier shall deliver the Products to the Delivery Location at any time after the Supplier notifies the Customer that the Products are ready for delivery, and delivery of the Products shall be completed on their arrival at the Delivery Location.

4.4 Any dates quoted for delivery are approximate only, and the time of Delivery is not of the essence. The Supplier shall not be liable for any delay in Delivery.

4.5 If the Supplier fails to deliver the Products or the Equipment, its liability shall be limited to a pro-rata reimbursement for any period when the Customer has paid for but not been provided with the Products and, if relevant, the Equipment and Services. The Supplier shall have no liability for any failure to Deliver the Products or the Equipment to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions, a correct and complete delivery address, or any other instructions that are relevant to the supply of the products or Equipment.

4.6 If the Customer fails to accept Delivery of the Products within three (3) Business Days or the earlier of the Supplier notifying the Customer that the Products are ready to be delivered or attempting to deliver the Products (the "Expected Delivery Date") then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Agreement:

- delivery of the Products shall be deemed to have been completed at 9:00 am on the third Business Day after the Expected Delivery Date; and
- the Supplier shall store the Products until actual delivery takes place, and charge the Customer for all related costs and expenses.

4.7 If ten (10) Business Days after the Expected Delivery Date the Customer has not accepted delivery of the Products, the Supplier may resell or otherwise dispose of part or all of such Products, charge the Customer a fee for the failed delivery, and the Products comprising such delivery shall not count towards the Minimum Order Value.

## 5. EQUIPMENT

5.1 Where Equipment is provided to the Customer under the Agreement the Customer warrants that it shall:

- take all reasonable care of the Equipment whilst in its possession and only use the Equipment in accordance with the instructions for use notified by the Supplier;
- only use Equipment exclusively with the Products supplied;
- insure the Equipment from the time of Delivery. The policy must be comprehensive, placed with a reputable insurance company and cover the full current replacement cost of the Equipment. The policy should be noted with the interest of the Supplier and be available for inspection by the Supplier; and
- not allow the Equipment to be uninstalled or removed from the Delivery Location other than by the Supplier.

5.2 The Supplier may enter any of the Customer's premises upon which the Equipment is located upon reasonable notice at any time during the Term to ensure the Supplier's compliance with the provisions of clause 5.1.

## 6. QUALITY, TITLE AND RISK

6.1 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Agreement.

6.2 The risk in the Products and the Equipment shall pass to the Customer on completion of Delivery.

6.3 Title to the Products shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) of all sums owed to the Supplier by the Customer.

6.4 Title to the Equipment shall remain with the Supplier at all times during the Term. The Supplier may at its absolute discretion, by giving the Customer written notice, transfer title

to the Equipment to the Customer at the end of the Term, and the Customer agrees to accept title to the Equipment upon receipt of such notice.

6.5 If, before title to the Products passes to the Customer, the Customer becomes subject to any of the events listed in clauses 9.1(b) - (h) then, without limiting any other right or remedy the Supplier may have, the Supplier may at any time:

- require the Customer to deliver up all Products and Equipment in its possession; and/or
- if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products and/or Equipment are stored in order to recover them.

## 7. SERVICES

7.1 Where the Supplier is required to provide Services, the Supplier will use reasonable endeavours to attend by the following working day after the request by the Customer to attend. The Supplier shall not be liable for any direct, indirect or consequential losses caused by any delay, whether such delay is caused by the Supplier or by any act or omission of the Customer or failure by the Customer to perform any obligation in or comply with any term of this Agreement.

7.2 The Supplier shall provide the Services with reasonable care and diligence but otherwise all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

7.3 The Supplier may charge the Customer a service charge to cover the wasted costs of a visit and/or an administration fee plus VAT for:

- calls attended where no access is gained; or
- calls where the service visit was no longer required but was not cancelled by the Customer within a reasonable time before it was scheduled; or
- calls attended where the Equipment is in good working order and there is no fault found.

## 8. PRICE AND PAYMENT

8.1 The price of the Products shall be the price set out in the Confirmation as changed from time to time in accordance with this Clause 8.

8.2 The Supplier may, by giving notice to the Customer at any time up to two (2) Business Days before delivery, increase the price of the Products to reflect any increase in the cost of the Products that is due to:

- any increased charge to the Supplier by the manufacturer of the Products due to a Force Majeure Event;
- any request by the Customer to change the delivery date(s), quantities or types of Products ordered;
- the Customer failing to reach the Minimum Order Value; or
- any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

8.3 In the case of orders of Products ordered for a delivery worth less than the Minimum Order Value, the price of the Products is exclusive of the costs and charges of packaging and delivery, which shall be invoiced to and payable by the Customer.

8.4 The Supplier may at its discretion make charges for losses incurred through damage to the Equipment caused by:

- misuse;
- use of the Equipment with products other than the Products;
- vandalism, wilful default or negligence;
- failure to operate the Equipment in accordance with the manufacturer's or the Supplier's instructions;
- use of the Equipment for a purpose other than that for which it was designed or made known to and agreed in writing by the Supplier.

(f) wilful or accidental damage to the Equipment by the Customer or any of its employees, agents, subcontractors or representatives;

8.5 The price of the Products is exclusive of amounts in respect of value added tax ("VAT"). The Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Products.

8.6 The price of the Products and where applicable the Services shall increase annually by reference to the Relevant Index for the 12 months preceding that date, save that the annual rate of increase shall never be less than 2% irrespective of the Relevant Index. Such increases shall be added annually and compounded thereafter.

8.7 Without prejudice to clause 8.6, the price of the Products and, where applicable, the Services, will be reviewed by the Supplier three (3) months before the expiry of each Term and the Supplier will notify the Customer in writing of any proposed increase within 14 days of such review. If the increase is unacceptable to the Customer, the Customer shall notify the Supplier in writing within 14 days of notification being despatched and, if agreement cannot be reached, the Supplier or the Customer shall have the right to terminate the Agreement at the end of that Term, subject to, in case of a termination at the end of the Initial Term, the payment of a £50 administration fee by the Customer.

8.8 The Customer agrees to order the Minimum Order Value of Products for each Order as set out in the Confirmation. Where the Order is less than the Minimum Order Value the Customer will be charged for packaging and delivery.

8.9 The Supplier may invoice the Customer on or at any time after the Products are despatched. Unless otherwise agreed in writing, the Customer shall pay the invoice in full and in cleared funds within 30 days of the date of the invoice, if the Customer is not paying by direct debit. Payment shall be made to the bank account nominated in writing by the Supplier. Time of payment is of the essence.

8.10 The Customer shall pay all payments on the due date and if it fails to do so the Supplier may:

- suspend provision of the Products and, if relevant, the Services under the Agreement; and/or
- require the Customer to pay interest on the overdue amount at the rate of 4% per annum above the base rate of the Bank of England (such rate accruing on a daily basis from the due date until the date of actual payment of the overdue amount); and/or
- terminate the Agreement as set out in clause 9.

8.11 The Customer shall pay all amounts due under the Agreement in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

## 9. TERMINATION AND SUSPENSION

9.1 The Supplier may terminate the Agreement with immediate effect by giving written notice to the Customer if:

- the Customer is in breach of the warranty given at clause 5.1 in respect of the Equipment;
- the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer;
- (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
- (being a company) the holder of a qualifying floating charge over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
- a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
- the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfill its obligations under the Agreement has been placed in jeopardy;
- (being an individual) the Customer is the subject of a bankruptcy order, dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation;
- the Customer fails to pay any amount due under the Agreement on the due date for payment; or
- the Customer fails to reach the Minimum Order Value in respect of three consecutive Orders;
- any event in any jurisdiction other than England and Wales which is analogous to the events in clause 9.1 (b) to (h).

9.2 Without limiting its other rights or remedies, if the Customer is in breach of or becomes subject to any of the circumstances listed in clause 9.1 or the Supplier reasonably believes that the Customer is about to become subject to any of them, the Supplier may:

- charge an administration fee of £100 plus VAT which shall be invoiced and payable in accordance with clauses 8.9 to 8.11; and/or

(b) suspend provision of the Products and, if relevant, the Services under the Agreement or any other contract between the Customer and the Supplier; and/or

(c) collect the Equipment as set out in clause 6.5; and/or

(d) require the Customer to indemnify the Supplier on a £1 for £1 basis for all losses, costs or expenses of any kind suffered, sustained or incurred by the Supplier as a result of the early termination of the Agreement.

9.3 For the purposes of clause 9.2(d), the Supplier's losses, costs and/or expenses may include but shall not be limited to:

- the purchase cost to the Supplier of any Equipment;
- the respective costs and expenses of installing and removing such Equipment;
- the costs and expenses of obtaining legal or other professional advice regarding the termination under clause 9 or any mediation, litigation, enforcement or dispute resolution process concerning such termination or its consequences; and
- the amounts due or payable by the Customer to the Supplier under the Agreement for the remainder of the Term, calculated for Products as being the Minimum Order Value for the remainder of the Term.

9.4 On termination for whatever reason, any Products which have not been paid for, and, if applicable, the Equipment shall be returned to the Supplier in satisfactory condition (subject to fair wear and tear) and if the Customer fails to return such items to the Supplier upon request, the Customer grants the Supplier the right of access to recover the Products and, where applicable, the Equipment and agrees to pay the Supplier's costs incurred in recovering such items. The Supplier may also elect to transfer title of the Equipment to the Customer in accordance with clause 6.4. The Supplier will in no circumstances be liable for any rectification works to any premises from where Equipment has been located and/or removed.

9.5 Termination of the Agreement, however arising, shall not affect either of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.

9.6 Clauses which expressly or by implication survive termination of the Agreement shall continue in full force and effect.

## 10. LIMITATION OF LIABILITY

10.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- fraud or fraudulent misrepresentation;
- breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

10.2 Subject to clause 10.1:

- the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Agreement; and
- the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Products purchased in the 12 month period immediately preceding the date of claim.

## 11. FORCE MAJEURE

Neither party shall be liable for any failure or delay in performing its obligations under the Agreement to the extent that such failure or delay is caused by a Force Majeure Event. A "Force Majeure Event" means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable.

## 12. GENERAL

12.1 Assignment and other dealings.

- The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Agreement.
- The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Agreement without the prior written consent of the Supplier.

12.2 Notices.

(a) Any notice or other communication given to a party under or in connection with the Agreement shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2; if sent by pre-paid first class post or other next working day delivery service, at 9:00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, at 9:00 am on the Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

12.3 Severance.

- If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Agreement.
- If any provision or part-provision of the Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

12.4 Waiver. A waiver of any right or remedy under the Agreement or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the 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 Third party rights. A person who is not a party to the Agreement shall not have any rights under or in connection with it, nor shall they have any right to enforce its terms.

12.6 Variation. Except as set out in these Conditions, no variation of the Agreement, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the Supplier.

12.7 Governing Law. The Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

12.8 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).

## 13. DATA PROTECTION

13.1 The Supplier is entitled to make searches about the Customer at credit reference agencies. The agencies may record details of searches whether or not the Supplier agrees to enter into the Agreement.

13.2 The Supplier may use credit-scoring methods to assess whether or not to enter into the Agreement with the Customer and, in some cases, to verify the Customer's identity. This information may also be used for debtor tracing, to prevent money laundering, and to help with the Supplier's credit-risk and fraud protection activities.

13.3 If the Supplier enters into the Agreement with the Customer, the Supplier may provide on-going details to the credit reference agencies where the Customer fails to pay on time or defaults under the Agreement.

13.4 The Supplier will store the Customer's contact details on its customer database which will be shared with other members of the JLA Group and external third parties (such as subcontractors) acting on the Supplier's behalf as necessary to fulfill the Supplier's obligations under the Agreement.

13.5 The Supplier may also use the Customer contact details to contact the Customer from time to time about other products and services provided within the JLA Group. If as a Customer you do not wish the Supplier to use your personal data in this way then please tick this box  and return a copy of these Conditions to the Supplier for the attention of Marketing at Meadowcroft Lane, Ripponden, West Yorkshire, HX6 4AJ or alternatively email dataprotection@jla.com with the words "I do not wish to receive any further information about other products and/or services provided within the JLA Group."