

TERMS AND CONDITIONS

1. TERMS

1.1

What these terms cover. These are the Terms and Conditions, on which we supply our products to you via our website currently www.herbertandward.com

1.2

Why you should read them. Please read these terms carefully before you submit your order to us. These terms tell you who we are, how we will provide products to you, how you and we may change or end the contract, what to do if there is a problem and other important information. If you think that there is a mistake in these terms, please contact us to discuss. By using our website you agree to be bound by these Terms and Conditions. If you do not agree with these Terms and Conditions please leave the website immediately and do not purchase any of our products.

2. INFORMATION ABOUT US AND HOW TO CONTACT US

2.1

Who we are. We are Herbert & Ward Limited a company registered in England and Wales. Our company registration number 00244412 and our registered office is at Unit 3, Southern House, Anthonys Way, Medway City Estate, Rochester, Kent, ME2 4DN.

2.2

How to contact us. You can contact us by telephoning our customer service team at Tel: 01634 724993 or by writing to us at info@herbertandward.com or writing to Unit 3, Southern House, Anthonys Way, Medway City Estate, Rochester, Kent, ME2 4DN

2.3

How we may contact you. If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us in your order.

2.4

“Writing” includes emails. When we use the words “writing” or “written” in these terms, this includes emails.

3. OUR CONTRACT WITH YOU

3.1

How we will accept your order. Our acceptance of your order will take place when we email you to accept it, at which point a contract will come into existence between you and us. All orders are subject to availability. You must be over 18 in order to purchase our products.

3.2

If we cannot accept your order. If we are unable to accept your order, we will inform you of this via the email you provided and will not charge you for the product. This might be because the product is out of stock, because of unexpected limits on our resources which we could not reasonably plan for, because a credit reference we have obtained for you does not meet our minimum requirements, because we have identified an error in the price or description of the product or because we are unable to meet a delivery deadline you have specified.

3.3

Your order number. We will assign an order number to your order and tell you what it is when we accept your order. It will help us if you can tell us the order number whenever you contact us about your order.

3.4

We only sell to the UK. Our website is solely for the sale and promotion of our products in the UK.

4. OUR PRODUCTS

4.1

Products may vary slightly from their pictures. The images of the products on our website are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that a device's display of the colours accurately reflects the colour of the products. Your product may vary slightly from those images. Although we have made every effort to be as accurate as possible, all sizes, weights, capacities, and measurements indicated on our website have a 2% tolerance.

4.2

Product packaging may vary. The packaging of the product may vary from that shown in images on our website.

4.3

Rights in the products and website. The products and the content of our website is protected by trademark, copyright, database and other intellectual property rights and you acknowledge that the material and content supplied as part of our website shall remain with us or our licensors. You may display the content of the website on a computer screen, store such content in electronic form on disk (but not any server or other storage device connected to a network) or print one copy of such content for your own personal, non-commercial use, provided you keep intact all and any copyright and proprietary notices. You may not otherwise copy, modify, reproduce or distribute or use for commercial purposes any of the materials or content on the website.

5. YOUR RIGHTS TO MAKE CHANGES

If you wish to make a change to the product you have ordered please contact us. We will let you know if the change is possible. If it is possible we will let you know about any changes to the price of the product, the timing of supply or anything else which would be necessary as a result of your requested change and ask you to confirm whether you wish to go ahead with the change. If we cannot make the change or the consequences of making the change are unacceptable to you, you may want to end the contract (please see Clause 8).

6. OUR RIGHTS TO MAKE CHANGES

6.1

Minor changes to the products. We may change the product:

- (a) to reflect changes in relevant laws and regulatory requirements; and
- (b) to implement minor technical adjustments and improvements, for example to address a security threat. These changes will not affect your use of the product.

6.2

More significant changes to the products and these terms. In addition, as we informed you in the description of the product on our website, we may make the following changes to these terms or the product, but if we do so we will notify you and you may then contact us to end the contract before the changes take effect and receive a refund for any products paid for but not received.

7. PROVIDING THE PRODUCTS

7.1

Delivery costs. The costs of delivery will be as displayed to you on our website.

7.2

When we will provide the products. During the order process we will let you know the estimated delivery we will provide the products to you. We endeavour to deliver the product(s) within 7 days of confirmation of order.

7.3

We are not responsible for delays outside our control. If our supply of the products is delayed by an event outside our control a Force Majeure (Act of God), then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for delays caused by the event, but if there is a risk of substantial delay you may contact us to end the contract and receive a refund for any products you have paid for but not received.

7.4

Collection by you. If you have asked to collect the products from our premises, you must call us to arrange a collection time and day during our working hours on weekdays (excluding public holidays) and Saturdays.

7.5

If you are not at home when the product(s) is delivered. If no one is available at your address you have indicated to us to take delivery, we will leave you a note informing you of how to rearrange delivery or collect the products from a local depot.

7.6

If you do not re-arrange delivery. If you do not collect the products from us as arranged or if, after a failed delivery to you, you do not re-arrange delivery or collect them from a delivery depot we will contact you for further instructions and may charge you for storage costs and any further delivery costs. If, despite our reasonable efforts, we are unable to contact you or re-arrange delivery or collection we may end the contract and Clause 10.2 will apply.

7.7

Your legal rights if we deliver product(s) late. You have legal rights if we deliver any product(s) late. If we miss the delivery deadline for any product(s) then you may treat the contract as at an end straight away if any of the following apply:

- (a) we have refused to deliver the product(s);
- (b) delivery within the delivery deadline was essential (taking into account all the relevant circumstances); or
- (c) you told us before we accepted your order that delivery within the delivery deadline was essential.

7.8

Setting a new deadline for delivery. If you do not wish to treat the contract as at an end straight away, or do not have the right to do so under Clause 7.7, you can give us a new deadline for delivery, which must be reasonable, and you can treat the contract as at an end if we do not meet the new deadline.

7.9

Ending the contract for late delivery. If you do choose to treat the contract as at an end for late delivery under Clause 7.7 or Clause 7.8 you can cancel your order for any of the product(s) or reject product(s) that have been delivered. If you wish, you can reject or cancel the order for some of those product(s) (not all of them), unless splitting them up would significantly reduce their value. After that we will refund any sums you have paid to us for the cancelled product(s) and their delivery. If the product(s) have been delivered to you, you must either return them in person to where you bought them, post them back to us or if they are not suitable for posting allow us to collect them from you. We will pay the costs of postage or collection. Please call customer services on Tel: 01634 724993 or email us at info@herbertandward.com for a return label or to arrange collection

7.10

When you become responsible for the product. You will be responsible for the products from the time we deliver the product to the address you gave us and we have received payment in full.

7.11

Reasons we may suspend the supply of products to you. We may have to suspend the supply of a product to:

- (a) deal with technical problems or make minor technical changes;
- (b) update the product to reflect changes in relevant laws and regulatory requirements;
- (c) make changes to the product as requested by you or notified by us to you (see Clause 6).

7.12

Your rights if we suspend the supply of products. We will contact you in advance to tell you we will be suspending supply of the product, unless the problem is urgent or an emergency. If we have to suspend the product for longer than 30 days we will adjust the price so that you do not pay for products while they are suspended. You may contact us to end the contract for a product if we suspend it, or tell you we are going to suspend it, in each case for a period of more than 30 days and we will refund any sums you have paid in advance for the product in respect of the period after you end the contract.

7.13

We may also suspend supply of the products if you do not pay. If there is a problem with your payment and you still do not make payment within 7 days of us reminding you that payment is due, we may suspend supply of the products until you have paid us the outstanding amounts. We will contact you to tell you we are suspending supply of the products. Where you dispute the unpaid invoice we will not charge you for the products during the period for which they are suspended. Where a dispute is resolved in our favour, as well as suspending the products we can also charge you interest on your overdue payments (see Cause 12.5).

8. YOUR RIGHTS TO END THE CONTRACT

8.1

You can always end your contract with us. Your rights when you end the contract will depend on what you have bought, whether there is anything wrong with it and when you decide to end the contract:

- (a) If what you have bought is mis-described you may have a legal right to end the contract see Clause 11;**
- (b) If you want to end the contract because of something we have done or have told you we are going to do, see Clause 8.2;**
- (c) If you have just changed your mind about the product, see Clause 8.3;**
- (d) In all other cases (if we are not at fault and there is no right to change your mind), see Clause 8.4.**

8.2

Ending the contract because of something we have done or are going to do. If you are ending a contract for a reason set out at (a) to (e) below the contract will end immediately and we will refund you in full for any products which have not been provided and you may also be entitled to compensation. The reasons are:

- (a)** we have told you about an upcoming change to the product or these terms which you do not agree to (see Clause 6.2);
- (b)** we have told you about an error in the price or description of the product you have ordered and you do not wish to proceed;
- (c)** there is a risk that supply of the products may be significantly delayed because of events outside our control;
- (d)** we have suspended supply of the products for technical reasons, or notify you we are going to suspend them for technical reasons, in each case for a period of more than 30 days; or
- (e)** you have a legal right to end the contract because of something we have done wrong (including because we have delivered late (see Clause 7.7)).

8.3

Exercising your right to change your mind (Consumer Contracts Regulations 2013). For our products bought online you have a legal right to change your mind, the cooling off period. You have 14 days cooling off period after the day you (or someone you nominate) receives the product to change your mind about the product(s). Provided that the product(s) remain sealed for quality, freshness and hygiene purposes you may return the product(s). Once you have unsealed the product(s) you cannot return them and will not receive a refund. Where we accept the return of the product(s) we will refund your monies and refund the basic delivery cost of delivery in getting the product(s) from your premises to our designated premises. Please note we will not refund your delivery costs if you use more than the basic delivery cost for example, next day service delivery.

8.4

Ending the contract where we are not at fault and there is no right to change your mind. Even if we are not at fault and you do not have a right to change your mind (see Clause 8.3), you can still end the contract before it is completed, but you may have to pay us compensation. A contract for product(s) is completed when the product is delivered and paid for. If you want to end a contract before it is completed where we are not at fault and you have not changed your mind, just contact us to let us know. The contract will end immediately and we will refund any

sums paid by you for products not provided but we may deduct from that refund or, if you have not made an advance payment, charge you a fee as compensation for the costs we will incur as a result of your ending the contract.

9. HOW TO END THE CONTRACT WITH US (INCLUDING IF YOU HAVE CHANGED YOUR MIND)

9.1

Tell us you want to end the contract. To end the contract with us, please let us know by doing one of the following:

(a) Phone or email. Call customer services on Tel: 01634 724993 or email us at info@herbertandward.com. Please provide your name, home address, details of the order and, where available, your phone number and email address.

(b) Online. Complete via the website.

(c) By post. Print off the cancellation form and post it to us at the address on the form. Or simply write to us at that address, including details of what you bought, when you ordered or received it and your name and address.

9.2

Returning products after ending the contract. If you end the contract for any reason after product(s) have been dispatched to you or you have received them, you must return them to us. You must either return the product(s) in person to where you bought them, post them back to us at Unit 3, Southern House, Anthonys Way, Medway City Estate, Rochester, Kent, ME2 4DN. Please call customer services on Tel: 01634 724993 or email us at info@herbertandward.com for a return label. If you are exercising your right to change your mind, if you have notified us within the 14 days cooling off period, you then will have a further 14 days to return the products. If you do not send the product back within the additional 14 day period your right to cancel and receive money back expires.

9.3

When we will pay the costs of return. Where we accept the return of the product(s) we will refund your monies and refund the basic delivery cost of delivery in getting the product(s) from your premises to our designated premises. Please note we will not refund your delivery costs if you use more than the basic delivery cost for example, next day service delivery. We will pay the costs of return:

(a) if the product(s) is mis-described;

(b) if you are ending the contract because we have told you of an upcoming change to the product or these terms, an error in pricing or description, a delay in delivery due to events outside our control or because you have a legal right to do so as a result of something we have done wrong; or

(c) if you are exercising your right to change your mind within the 14 day cooling off period of receipt of product.

In all other circumstances you must pay the costs of return.

9.4

What we charge for collection. If you are responsible for the costs of return and we agree to collect the product from you, we will charge you the direct cost to us of collection. The costs of collection will be the same as our charges for standard delivery, see www.herbertandward.com/delivery-info

9.5

Deductions from refunds if you are exercising your right to change your mind. If you are exercising your right to change your mind:

(a) We may reduce your refund of the price (excluding delivery costs) to reflect any reduction in the value of the product(s), if this has been caused by your handling them in a way which would not be permitted in a shop.

(b) The maximum refund for delivery costs will be the costs of delivery by the least expensive delivery method we offer. For example, if we offer delivery of a product within 3-5 days at one cost but you choose to have the product delivered within 24 hours at a higher cost, then we will only refund what you would have paid for the cheaper delivery option.

9.6

When your refund will be made. We will make any refunds due to you as soon as possible. If you are exercising your right to change your mind within the 14 days cooling off period then your refund will be made within 14 days from the day on which we receive the product back from you in good order or, if earlier, the day on which you provide us with written evidence that you have sent the product back to us. For information about how to return a product to us, see clause 9.2.

10. OUR RIGHTS TO END THE CONTRACT

10.1

We may end the contract if you break it. We may end the contract for a product at any time by writing to you if:

(a) you do not make any payment to us when it is due and you still do not make payment within 7 days of us reminding you that payment is due;

(b) you do not, within a reasonable time, allow us to deliver the products to you or collect them from us;

10.2

You must compensate us if you break the contract. If we end the contract in the situations set out in Clause 10.1 we will refund any money you have paid in advance for products we have not provided but we may deduct or charge you £20 as compensation for the costs we will incur as a result of your breaking the contract.

10.3

We may withdraw the product. We may write to you to let you know that we are going to stop providing the product. We will let you know at least 7 days in advance of our stopping the supply of the product and will refund any sums you have paid in advance for product which will not be delivered.

11. IF THERE IS A PROBLEM WITH THE PRODUCT

11.1

How to tell us about problems. If you have any questions or complaints about the product, please contact us. You can telephone our customer service team at Tel: 01634 724993 or by writing to us at info@herbertandward.com or writing to Unit 3, Southern House, Anthonys Way, Medway City Estate, Rochester, Kent, ME2 4DN for a return label or to arrange collection.

11.2

Summary of your legal rights. We are under a legal duty to supply product(s) that are in conformity with this contract. Under the Consumer Rights Act 2015 you have a legal right to reject goods that are unfit for purpose or not as described and get a full refund. This right is limited to 30 days from the date you buy the product(s), not from when the product(s) is delivered to you.

11.3

Your obligation to return rejected products. If you wish to exercise your legal rights above, to reject the product(s) you must either return them in person to where you bought them, post them back to us or (if they are not suitable for posting) allow us to collect them from you. We will pay the costs of postage or collection. Please call customer services Tel: 01634 724993 or by writing to us at info@herbertandward.com or writing to Unit 3, Southern House, Anthonys Way, Medway City Estate, Rochester, Kent, ME2 4DN for a return label or to arrange collection.

12. PRICE AND PAYMENT

12.1

Where to find the price for the product. The price of the product(s) (which dependent on the product may include VAT) will be the price indicated on the order pages when you placed your order. We take reasonable care to ensure that the price of the product advised to you is correct. However, please see Clause 12.3 for what happens if we discover an error in the price of the product you order.

12.2

We will pass on changes in the rate of VAT. If the rate of VAT changes between your order date and the date we supply the product, we will adjust the rate of VAT that you pay, unless you have already paid for the product in full before the change in the rate of VAT takes effect.

12.3

What happens if we got the price wrong. It is always possible that, despite our best efforts, some of the products we sell may be incorrectly priced. We will normally check prices before accepting your order so that, where the product's correct price at your order date is less than our stated price at your order date, we will charge the lower amount. If the product's correct price at your order date is higher than the price stated to you, we will contact you for your instructions before we accept your order. If we accept and process your order where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may end the contract, refund you any sums you have paid and require the return of any product(s) provided to you.

12.4

When you must pay and how you must pay. Via our third party provider Stripe (<https://stripe.com/gb>) for our payments. Stripe accept payment with MasterCard, Visa and America Express as amended from time to time. You must pay for the products before we dispatch them. We will not charge your credit or debit card until we dispatch the products to you. You confirm that you are the owner of the credit, debit card or PayPal account. All credit/debit cardholders are subject to validation checks and authorisation. If your payment card is refused to or does not, for any reason, authorise payment to us we will not be liable to you for any delay or non-delivery of the product(s).

12.5

What to do if you think an invoice is wrong. If you think an invoice is wrong please contact us promptly to let us know. You will not have to pay any interest until the dispute is resolved. Once the dispute is resolved if necessary we may charge you the correct amount plus interest on correctly invoiced sums from the original due date.

13. OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU

13.1

Liability. We shall not be liable to you under or in connection with these Terms and Conditions or any collateral contract including but not limited to the following:

- (a) loss of revenue;
- (b) loss of contracts;
- (c) loss of the use of money;
- (d) loss of anticipated savings;
- (e) loss of business;
- (f) loss of opportunity;
- (g) loss of goodwill;
- (h) loss of reputation;
- (i) loss of, damage to or corruption of data; or
- (j) any indirect or consequential loss,

in each case howsoever arising, whether such loss or damage was foreseeable or in the contemplation of the parties and whether arising in or caused by breach of contract, tort (including proven negligence), breach of statutory duty or otherwise.

13.2

We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our proven negligence or the proven negligence of our employees, agents or subcontractors; for proven fraud or proven fraudulent misrepresentation; for breach of your legal rights in relation to the products as summarised at Clause 11.2 under the Consumer Protection Act 1987 and any breach of the terms implied by Part II section 12 of the Sale of Goods Act 1979 or Part II of the Supply of Goods and Services Act 1982; or any other liability which cannot be excluded or limited under applicable law.

13.3

We are not liable for business losses. We only supply the products for domestic and private use. If you use the products for any commercial, business or re-sale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity. We strictly forbid the use of our products to be used for re-sale purposes.

13.4

We are not liable for allergens. You acknowledge and accept that some products may contain traces of nuts or other allergens therefore we cannot guarantee that the products will be allergen free. Please note the ingredients provided on the products on the manufacturers' packaging and lists. We are not liable for your physical reaction to the consumption of the products nor can we be held liable for the accuracy of the ingredients of the manufacturers' packaging and lists. You acknowledge and accept that you consume the products at your own risk.

14. HOW WE MAY USE YOUR PERSONAL INFORMATION

Please see our Privacy Policy for full details www.herbetandward.com/privacy-policy

15. OTHER TERMS

15.1

We may transfer this agreement to someone else. We may transfer our rights and obligations, your information and order under these Terms and Conditions to another organisation at our sole discretion, this will not affect your rights under the contract.

15.2

You need our consent to transfer your rights to someone else. You may only transfer your rights and obligations under these terms to another person if we agree to this in writing.

15.3

Nobody else has any rights under this contract (except someone you pass your guarantee on to). This contract is between you and us. No other person shall have any rights to enforce any of its terms. Neither of us will need to get the agreement of any other person in order to end the contract or make any changes to these terms.

15.4

If a court finds part of this contract illegal, the rest will continue in force. Each of the Clauses of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining Clauses will remain in full force and effect.

15.5

Even if we delay in enforcing this contract, we can still enforce it later. If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you but we continue to provide the products, we can still require you to make the payment at a later date.

15.6

Which laws apply to this contract and where you may bring legal proceedings. These terms are governed by English law and either you or we can bring legal proceedings in respect of the products in the English courts.

SCHEDULE A

CANCELLATION FORM

(Complete and return this form only if you wish to withdraw from the contract)

To

Herbert & Ward Limited

Unit 3, Southern House,

Anthony's Way,

Medway City Estate,

Rochester, Kent,

ME2 4DN

I/We [*] hereby give notice that I/We [*] cancel my/our [*] contract of sale of the following product(s):

Ordered on [] 2017

Received on [] 2017

Full name of customer(s) _____

Address of customer(s) _____

Signature of consumer(s) _____

(only if this form is notified on paper),

Date [] 2017

[*] Delete as appropriate