

## 1. DEFINITIONS AND INTERPRETATION

In these Conditions unless the context otherwise requires:

**"Conditions"** means these terms and conditions for the loan or hire of the Juicing System and all additional supplies of Produce.

**"Commencement Date"** means the date of commencement reflected on the Order Confirmation.

**"Contract Term"** means the Minimum Term plus any extension under clause 2, or if shorter the period until the loan or lease of the Juice System is terminated under these Conditions.

**"Customer"** means the customer as defined on the Order Confirmation;

**"Equipment"** means the equipment of the description and quantity reflected on the Order Confirmation supplied by Ujuice to the Customer as part of the Juice System on these Terms & Conditions.

**"Juice System"** means the freshly squeezed juice system or the Blending System comprising of the Equipment together with the Produce and supplied by Ujuice to the Customer exclusively on these Terms & Conditions under either the Ujuice, Usmoothie or Outspan Mark.

**"Loan Arrangement"** means an arrangement whereby Ujuice provides the Customer with the Equipment, the Produce and the cups free of charge at the premises specified in the Order Confirmation, in return for a consideration calculated as a percentage of sales of juice, as provided by clause 11. Loan Arrangements apply if so indicated in the Order Confirmation and these Conditions apply *mutatis mutandis* to Loan Arrangements.

**"Minimum Term"** means the minimum term detailed on the Order Confirmation.

**"Ujuice"** means Ujuice Limited, a company incorporated under the laws of England and Wales (registered number 4550558), whose further details appear on the Order Confirmation;

**"Order"** means an order, whether written or verbal, in respect of either Equipment or Produce issued by the Customer to Ujuice, which shall be deemed to be an offer by the Customer to contract on these Conditions (subject to an Order Confirmation).

**"Order Confirmation"** means Ujuice's standard Order Confirmation form, the issue of which shall be a condition precedent to the creation of a contract between the Parties, to which contract these Conditions will automatically apply;

**"Parties"** means the Parties to these Conditions, as described on the Order Confirmation, and a **"Party"** shall be construed accordingly.

**"Produce"** means the fresh juicing fruit or the Frozen Smoothie Fruit packs of the description and quantity as defined in each Order, to be procured by the Customer exclusively from Ujuice as part of the Juice System under these Conditions;

**"Return Conditions"** means that the Equipment shall be returned to Ujuice in terms of these Conditions clean, undamaged and in a condition so as to fulfil the function for which it is intended, having been kept in good working order and having been properly serviced, maintained and washed, fair wear and tear excepted.

## 2. CONTRACT FORMATION & DURATION

- 2.1 These Conditions apply to the hire or loan of the Equipment and to all supplies of the Produce and shall override any contrary different or additional terms or conditions (if any) contained on or referred to in any previous agreement between the Parties, order form or other documents or correspondence from the Customer, and no addition, alteration or substitution of these terms will bind Ujuice or form part of any Order unless they are expressly accepted in writing by a person authorised to sign on Ujuice's behalf.
- 2.2 Ujuice shall continue to loan or hire the Equipment to the Customer after the expiry of the Minimum Term until either Party serves one (1) months' written notice of termination on the other such notice taking effect at any time after the expiry of the Minimum Term.
- 2.3 In relation to Loan Arrangements only, the notice period will be three (3) months, but the Customer may choose to pay a severance fee in lieu of the three months' notice period, which fee shall be calculated at a rate of 50p per sale over a period of three (3) months. The severance fee shall be based on actual sales of the three (3) month period immediately preceding the notice period or the minimum quantity agreed in your Order Confirmation, whichever is the higher.

## 3. PRICE & PAYMENT TERMS

- 3.1 Unless otherwise stated on the Order Confirmation, the Customer shall pay an initial three (3) months rental on delivery of the Equipment. The balance of the rental amount shall be paid without previous demand, deduction, counterclaim or set-off in consecutive monthly instalments (as reflected on the Order Confirmation) by standing order from the Customer's account to Ujuice's bank account.
- 3.2 The price of the Produce shall be Ujuice's quoted price or, where no price has been quoted, the price specified in Ujuice's invoice. Ujuice shall be entitled to invoice the Customer for the price of the Produce on or at any time after delivery of the Produce.
- 3.3 Unless otherwise agreed in writing, payment in respect of each invoice shall be made by the 28th day after the date of Ujuice's invoice without deduction or set off.
- 3.4 The cost of delivery shall be included in the price but Ujuice shall make an additional charge of such amount as may be agreed between the Parties for express delivery.
- 3.5 Time shall be of the essence in respect of any sums payable under these Conditions. Ujuice shall be entitled to charge interest on any overdue payment under the Late Payment of Commercial Debts (Interest) Act 1998 both before or after judgement.

## 4. CUSTOMER'S OBLIGATIONS

- 4.1 The Customer undertakes throughout the Contract Term:
  - (a) to use the Equipment in accordance with the operating instructions and any manufacturer's warranty requirements and recommendations and to ensure that the Equipment is used by personnel who have been properly trained by Ujuice;
  - (b) to keep or procure that throughout the Contract Term the Equipment is kept in good repair, condition and working order;
  - (c) to wash or procure the washing of the Equipment at least once daily;
  - (d) to allow access to Ujuice or its authorised agent/representative from time to time in order that proper maintenance and servicing may be carried out, and not to modify or change the Equipment, or use any parts not supplied by Ujuice;
  - (e) to advise Ujuice immediately if the Equipment is destroyed, damaged or lost;
  - (f) to endeavour to keep the Equipment stocked with Produce at all times;
  - (g) to ensure that the built in water supply tank of the Equipment is changed daily during any trial period and thereafter, unless directly plumbed to a water supply;
  - (h) to ensure that the Produce and the cups are stored in appropriate sanitary conditions and in accordance with any other requirements advised by Ujuice;
  - (i) save in respect of Loan Arrangements, to pay the cost of all consumables necessary for the use and operation of the Juice System, which consumables shall be supplied by Ujuice;
  - (j) to keep the Equipment securely and in its own possession at its trading site or at such other location(s) as Ujuice may agree, provided that the Equipment is not removed from Great Britain, and neither to sell or offer for sale, assign, mortgage, pledge, underlet, lend or otherwise deal with the Equipment or any interest in it or in these Conditions, nor to allow the creation of any charge or lien over it without the previous written consent of Ujuice;
  - (k) to ensure that all juice dispensed from the Equipment is free from impurities and fit for human consumption and to indemnify Ujuice against all losses charges and damages however incurred and whenever arising, either directly or indirectly from the Customer's failure to carry out its duties under these Conditions or by reason of any loss, injury or damage suffered by any person from the possession, hiring or use of the Juicing System or any defect in the Juicing System or the design, manufacture or testing of the Juicing System, or Ujuice exercising any right in respect of it or its ownership or hiring.

## 5. DELIVERY & ACCEPTANCE

- 5.1 Save as provided hereunder, the Customer shall be deemed to have accepted the Equipment and all Produce upon its delivery by Ujuice to the place of delivery specified in the Order Confirmation.
- 5.2 The Customer shall examine the Equipment on delivery for any patent defects, and the Produce for any obvious damage or spoilage. Any claim by the Customer which is based on any defect in the quality, quantity or condition of the Equipment or the Produce or their failure to correspond with specification shall be notified in writing to Ujuice within 24 hours from the date of delivery. If the Customer does not notify Ujuice accordingly, the Customer shall not be entitled to reject the Equipment or the Produce and Ujuice shall have no liability for such defect or failure, and the Customer shall be bound to pay the rentals and purchase price as if the Equipment and Produce respectively had been delivered in accordance with the contract.
- 5.3 Where any valid claim in respect of any defect in the quality, quantity or condition of the Juicing System is notified to Ujuice in accordance with these conditions, Ujuice's only liability shall be to replace the relevant Equipment or Produce (or the portion in question) free of charge. The Customer is not entitled to withhold payment in respect of the amount payable under the invoice.

## 6. PRODUCE

- 6.1 The Customer undertakes to purchase the minimum monthly quantity of Produce reflected on the Order Confirmation and to use only the Produce supplied by Ujuice with the Equipment and not to purchase juicing fruit for this purpose from any other supplier whatsoever. If any fruit other than the Produce is squeezed with the Equipment in contravention of these Conditions, then a surcharge of five pence (5p) per individual fruit will be payable to Ujuice as compensation, which amount shall be estimated by referral to the throughput of fruit in the Equipment.
- 6.2 All Produce supplied by Ujuice shall be in accordance with the specifications as to quality, quantity and description (if any) expressly listed or set out in the Order. No other specifications, warranties, undertakings, written or oral representations, correspondence or statement, promotional or sales literature shall form part of or be incorporated by reference into these Conditions, and are hereby expressly excluded.
- 6.3 Delivery dates and times shall be deemed to be approximate only and time for delivery of the Produce shall not be of the essence. The Customer shall not be entitled to reject the Produce for any failure on Ujuice's part to deliver on the estimated delivery date.

## 7. RETENTION OF TITLE

- 7.1 Ujuice shall at all times retain the ownership of the Equipment and the Customer shall have no interest in the Equipment save as is provided by these Conditions.
- 7.2 Notwithstanding delivery and passing of risk, title to the Produce comprised in each consignment shall not pass to the Customer until the Customer has paid the price in full, but, even though title has not passed, Ujuice shall be entitled to sue for the price once payment has become due.
- 7.3 In the event that any amount that is due and payable under these Conditions is overdue by the Customer, and remains outstanding despite demand therefor:
  - (a) Ujuice shall have absolute authority to retake, sell or otherwise deal with or dispose of all or part of the Produce or Equipment in which title remains vested in Ujuice; and
  - (b) for the purpose specified in (a) above, Ujuice or any of its agents or authorised representatives shall be entitled at any time and without notice to enter upon any premises in which the Equipment or Produce or any part thereof is stored or kept, or is reasonably believed so to be.

## 8. RISK & INSURANCE

- 8.1 Risk to the Equipment and the Produce shall pass on safe delivery to the Customer at the Delivery Address specified in the Order Confirmation.
- 8.2 The Customer shall insure the cups and the Produce on behalf of Ujuice until such time as title passes to the Customer in terms of clause 7.2 of these Conditions (or, in the case of a Loan Arrangement only, until these items are sold).
- 8.3 The Customer shall insure and keep the Equipment insured throughout the Contract Term for its full replacement value (as reflected on the Order Confirmation) against all risks (including

third party risks) on a comprehensive policy without restriction or excess.

- 8.4 The Customer shall notify the insurers that the Equipment is on hire / loan from Ujuice and request the insurers to endorse a note of such interest on the policy of insurance naming Ujuice as payee, and to show on demand to Ujuice the policy of insurance, the premium receipts and insurance certificate and shall not use or allow the Equipment to be used for any purpose not permitted by the terms and conditions of the policy of insurance or do or allow to be done any act or thing whereby the insurance may be invalidated.
- 8.5 If the Customer shall default in the payment of any premium in respect of the insurance Ujuice may pay such premium in which event the Customer shall repay the amount thereof to Ujuice on demand.
- 8.6 The Customer agrees to indemnify Ujuice against all loss or damage to the Equipment not recoverable under the policy of insurance and to immediately notify Ujuice on the occurrence of any event or accident which is a risk covered by the Customer's insurance, and not to compromise any claim without the consent of Ujuice. Ujuice shall have the right itself to repair or replace any Equipment (or parts) which are the subject of an event or accident and to claim the costs thereof from the Customer. The Customer shall continue to pay any amounts due to Ujuice in respect of such Equipment during such reinstatement or repair.

## 9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 All trademarks relating to the Produce are the property of Ujuice or its respective licensor. The Customer shall not without the prior written consent of Ujuice alter, deface or remove in any manner any reference to the trademarks, any reference to Ujuice or any other name attached or affixed to the Equipment, the Produce or their packaging or labelling.
- 9.2 The Customer shall not do or omit to do anything in its use of the trademarks that may or would adversely affect their validity.
- 9.3 The Customer shall not procure, or allow to be procured any copies of the operations manuals or parts thereof, nor hand out or otherwise part with possession of the manuals, which remain the property of Ujuice.
- 9.4 Any infringement of any of these rights may result in legal proceedings. The Customer shall not use or authorise any other person to use any name, logo or trademarks of Ujuice in any manner whatsoever other than as expressly approved by Ujuice in writing.

## 10. UJUICE WARRANTIES & LIABILITY

- 10.1 Ujuice warrants that it has authority and is duly entitled to sell the Produce and to hire and loan the Equipment as provided by these Conditions.
- 10.2 Ujuice agrees that provided that the Customer is not in default hereunder it will upon request assign to the Customer (so far as the same are capable of being assigned) the benefit of all expressed warranties granted in favour of Ujuice by the supplier or the manufacturer of the Equipment provided that the Customer shall first fully indemnify Ujuice to the satisfaction of Ujuice against all costs, claims, damages and expenses incurred or to be incurred in connection with the enforcement thereof or the making of any claim thereunder and provided that upon the expiration of the Contract Term or upon the earlier termination of the hiring hereunder the Customer agrees to re-assign such warranties to Ujuice and for that purpose hereby irrevocably appoints Ujuice as its attorney and in its name to execute in favour of Ujuice any such assignment in such form as may then be necessary to give effect to this clause.
- 10.3 Ujuice undertakes throughout the Contract Term to carry out repairs to the Equipment with proper care and skill, but gives no warranty that the serviceability, performance, capacity, state, condition, operation or use of the Equipment will be unaffected by the passage of time.
- 10.4 In no circumstances shall Ujuice be liable, in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever, and whatever the cause thereof (i) for any loss of profit, business, contracts, revenues or anticipated savings, or (ii) for any special indirect or consequential damage of any nature whatsoever. Ujuice's maximum aggregate liability arising out of or in connection with these Conditions shall be limited in each consecutive period of twelve (12) months from the

Commencement Date to ten per cent (10%) of the total amounts payable by the Customer in that twelve (12) month period, and such limitation shall apply as an aggregate of any claims made by the Customer under these Conditions in such period.

10.5 Nothing in these Conditions shall operate or be construed to operate so as to exclude or restrict the liability of Ujuice for death or personal injury caused to the Customer by reason of the negligence of Ujuice or of its servants, employees or agents.

#### **11. LOAN OF EQUIPMENT**

11.1 In relation to a Loan Arrangement, the Customer undertakes for the duration of the loan period:

- (a) To use the Produce and cups, if included in the Order Confirmation, only for the purpose of stocking the Equipment and selling the juice, respectively; and
- (b) Not to change the sale price of the juice without the prior consent of Ujuice.

11.2 Ujuice shall provide all spare parts, consumables and technical support as required to maintain the optimum sales of juice using the Juicing System, at no cost to the Customer.

11.3 The Customer shall be entitled to retain a portion of the sale profits, calculated at the rate specified on the Order Confirmation. Ujuice shall obtain a reading each month and invoice the Customer for all amounts received in respect of sales of juice produced by the Juicing System, less the Customer's entitlement. All invoices shall be paid in accordance with the provisions of clause 3 of these Conditions.

#### **12. CONFIDENTIALITY**

Both Ujuice and the Buyer shall each keep confidential and shall not, without the prior consent in writing of the other, disclose to any third party any confidential trade or commercial information which it has acquired from the other as a result of discussions, negotiations and other communications between them relating to the Produce and the Order.

#### **13. FORCE MAJEURE**

13.1 Ujuice shall not be under any liability for any failure to perform any of its obligations under any Order due to Force Majeure. Following notification by Ujuice to the Customer of such cause, Ujuice shall be allowed a reasonable extension of time for the performance of its obligations.

13.2 For the purposes of this Condition, "Force Majeure" means fire, explosion, flood, lightning, or other severe adverse weather conditions, Act of God, act of terrorism, war, rebellion, riot, sabotage, official strike or labour dispute, or any other events or circumstances outside the reasonable control of the Party affected thereby.

#### **14. TERMINATION**

14.1 Ujuice shall be entitled, without prejudice to any other right or remedy, to cancel the contract or suspend any further deliveries to the Customer without any liability to the Customer, if the Customer:

- (a) commits a material, continued or persistent breach of these Conditions and fails to remedy the same within fourteen (14) days of receiving written notice requiring it to do so; or
- (b) proposes any voluntary arrangement or proposes any kind of composition, compromise or arrangement with any of its creditors or has any distress or execution levied over any of its assets or is subject to any winding-up petition or administration order, or an administrator is appointed over its assets, property or business, or it ceases or threatens to cease carrying on its business or it is subject to any proceedings analogous to any of the aforesaid or Ujuice believes that any of the aforesaid may apply; or
- (c) in relation to Loan Arrangements only, if sales fall below that agreed in your Order Confirmation for a period exceeding 3 months, we reserve the right to terminate the agreement in accordance with clause 15 of this document

14.2 The termination of these Conditions shall be without prejudice to the rights and remedies of Ujuice that may have accrued up to the date of termination including damages for any prior breach of contract.

#### **15. CONSEQUENCES OF TERMINATION**

15.1 Forthwith upon termination under clauses 2 or 14, or if these Conditions are wrongfully terminated by the Customer, Ujuice's consent to the Customer's possession of the Equipment shall be automatically terminated and the Customer shall:

- (a) deliver up the Equipment in accordance with the Return Conditions; and
- (b) pay to Ujuice all amounts (including arrears) payable over the full Minimum Term, together with any damages incurred for any breach of these Conditions and all expenses and costs incurred by Ujuice in retaking possession of and selling or re-hiring the Juicing System or attempting to sell or re-hire the Juicing System and/or enforcing its rights under these Conditions.

15.2 If so indicated on the Order Confirmation, the Customer shall have first option to purchase the Equipment on terms to be mutually agreed between the Parties, such option to be exercised by the Customer in the option period following the later of the option date specified on the Order Confirmation or the expiry of the Minimum term. In the event that the Customer fails to exercise the option by the expiry of the option period, the Conditions of the hire / loan shall continue in full force and effect.

#### **16. ASSIGNMENT & SUB-CONTRACTING**

The Customer shall not be entitled to assign its rights or obligations under these Conditions without the prior written approval of Ujuice. Any assignment, transfer or sub-contracting by Ujuice and/or the Customer respectively shall be subject to the assignee entering into such direct covenants as shall reasonably be required by Ujuice or the Customer as the case may be.

#### **17. GENERAL**

17.1 These Conditions contain the entire agreement between the Parties in relation to the hire of the Equipment and the supply of Produce and no purported alteration or variation of these Conditions shall be effective unless it is in writing and agreed by both the Parties.

17.2 Save as expressly provided herein, no term of these Conditions shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party (being any person other than the Parties).

17.3 The waiver by Ujuice of any breach of these Conditions shall not prevent the subsequent enforcement of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.

17.4 If at any time any part of these Conditions is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from these Conditions and the validity and/or enforceability of the remaining provisions of these Conditions shall not in any way be affected or impaired as a result of that omission.

17.5 No remedy conferred by any provision of these Conditions is intended to be exclusive of any other remedy except as expressly provided for in these Conditions and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or existing at law or in equity, by statute or otherwise.

17.6 Any notice required under these Conditions may be given or served in writing, by facsimile transmission or e-mail (provided any e-mail shall be confirmed by post or facsimile transmission) to the address specified on the Order Confirmation, or at such other address as the Customer shall specify by written notice to Ujuice. Any such notice shall be deemed to have been served, if by hand delivery, when delivered, if by registered courier post, forty-eight (48) hours after posting, if by facsimile transmission or e-mail, at 10.00 am on the next business day following the time of confirmed transmission.

17.7 These Conditions shall be governed by, and construed in accordance with, the laws of England and any disputes arising out of or relating to these Conditions shall be subject to the exclusive jurisdiction of the English Courts.