

## TERMS AND CONDITIONS

### 1. DEFINITIONS

When used in this Agreement:

**Agreement** means the Cover Page, these Terms and Conditions and any documents included by reference, as each may be amended from time to time in accordance with the terms of this Agreement.

**Commencement Date** means the effective date of this Agreement stated in section (1i) of the Cover Page.

**Cover Page** means the Application & Agreement Form signed by the Customer.

**Customer** means the organisation detailed on the Cover Page in section (2).

**Dispensers** means the dispensers to be supplied by Northwood Hygiene Products (Northwood) via the Distributor to the Customer on the terms of this Agreement including any additional dispensers and replacement dispensers that Northwood supplies via the Distributor to the Customer from time to time.

**Distributor** means the party detailed in section (1iii) of the Cover Page.

**Initial Fixed Term** means the period detailed in section (1i) of the Cover Page.

**Paper Products** means the disposable paper products used through the Dispensers of the type(s) stated on the Cover Page in section (4) sold by Northwood to the Distributor for resale to the Customer.

**Premises** means the location at which the Dispensers are to be installed for the Term as specified by the Customer on the Cover Page in section (2) or as notified by the Customer to Northwood from time to time.

**Products** means both Dispensers and Paper Products.

**Term** means the term of this Agreement, as set out in clause 4.

### 2. FREE ON LOAN

2.1 Northwood shall provide the Dispensers, and the Customer agrees to take the Dispensers on loan from Northwood subject to the terms and conditions of this Agreement.

2.2 Where a part payment fee is applicable the amount specified is non-refundable and paid by the distributor on all initial and additional dispensers. Replacement dispensers are dealt with under clauses 5.2 and 5.3.

2.3 In consideration of Northwood supplying the Dispensers to the Customer for the duration of the Term, the Customer shall;

(a) as a condition of this Agreement, use only the specified Paper Products through the Dispensers and purchase the Paper Products from the Distributor; and

(b) fully comply with the terms and conditions of this Agreement at all times.

### 3. TITLE AND RISK

3.1 Title to the Dispensers shall remain with Northwood at all times unless and until the Customer purchases the Dispensers from Northwood at the price published by Northwood on its website at the time of purchase, at which point title will transfer from Northwood to the Customer.

3.2 If either party terminates the Agreement during the Initial Fixed Term, the Customer shall be obliged to immediately purchase the Dispensers from in accordance with clause 3.1.

3.3 If either party terminates the Agreement after the Initial Fixed Term, then subject to clause 3.4, the Customer may:

(a) keep the Dispensers at the Premises;

(b) return the Dispensers to Northwood at the Customer's own cost; or

(c) purchase the Dispensers from Northwood in accordance with clause 3.1.

3.4 Should the Customer keep Dispensers at the Premises under clause 3.3 (a) following termination, then without prejudice to its other rights under this Agreement, Northwood shall be entitled at any time before title to the Dispensers passes from Northwood, to enter upon the Premises without notice to recover the Dispensers, or procure that the Customer returns the Dispensers in accordance with clause 3.3 (b).

3.5 The risk in the Dispensers shall pass to the Customer at the point of delivery to the Premises and the Customer shall be responsible for all loss or damage to the Dispensers whilst at the Premises.

### 4. TERM AND TERMINATION OF THE CUSTOMER AGREEMENT

4.1 The Agreement begins on the Commencement Date and, subject to clauses 4.2 and 4.3 shall continue for the Initial Fixed Term and indefinitely after that until terminated by either party by giving at least one month's prior written notice to expire on or after the Initial Fixed Term.

4.2 Northwood may in its absolute discretion give notice in writing to the Customer terminating this Agreement immediately if any of the following events occur and: (i) they are not remedied to Northwood's satisfaction within 14 days of a written notice by Northwood specifying the event and requiring it to be remedied; or, (ii) where the event is incapable of remedy:

(a) if the Customer dispenses paper products through the Dispensers which are not Paper Products supplied via the Distributor (or a nominated distributor approved by Northwood); or

(b) if the Customer fails to notify Northwood that the Distributor is no longer providing the Paper Products; or

(c) if the Customer fails to pay monies owed to the Distributor within the timescale agreed separately with the Distributor; or

(d) if the Distribution Agreement held between the Distributor and Northwood is terminated for any reason.

4.3 Either party may give notice in writing to the other terminating this Agreement immediately if:

(a) the other party breaches applicable law; or

(b) the other party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement; or

(c) the other is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or suffers any event which could be reasonably considered to indicate that it is insolvent or at serious risk of becoming so in the relatively near future including, insolvent liquidation, a declaration of bankruptcy, the presentation of a bankruptcy or a winding up petition which is not withdrawn, dismissed or discharged within 28 days of its presentation or the appointment of an administrator, receiver or similar over any of its assets or undertaking; or

(d) the other is resident in a jurisdiction other than England and Wales, if an event similar to any of those specified in clause 4.3 (c) occurs to or in relation to it.

### 5. DUTY OF CARE

5.1 During the Term the Customer shall:

(a) take good care of the Dispensers;

(b) keep the Dispensers operational at the Premises at all times during the Term;

(c) only use Dispensers for the purpose of dispensing Paper Products at the Premises;

(d) ensure that Dispensers are operated in accordance with any instructions or recommendations issued by Northwood or the Distributor as the case may be;

(e) undertake regular maintenance checks on Dispensers and ensure that they are kept free from defects and in a good state of repair (fair wear and tear excepted) and supplied with sufficient quantities of Paper Products and equipped with any ancillary items required for the function of Dispensers (such as batteries);

(f) not remove, obscure or modify any marks or labels which are affixed to the Dispensers by its manufacturer or by Northwood;

(g) provide Northwood upon request with all such information and data regarding the Premises and the Customer's current and past usage of the Products as Northwood may request; and

(h) procure that any third party to which the Customer makes the Dispensers available complies with the terms of this Agreement in full as if that third party was a party to this Agreement, and the Customer shall indemnify Northwood in full and on demand for any losses, liabilities, damages, costs, expenses or fees (including legal fees) arising out of any act or omission of a third party which does not comply with the terms of this Agreement including any third party claims against Northwood (howsoever arising).

5.2 For any breakage of Dispensers other than in circumstances specified under clause 5.3, the Customer shall pay the full costs that Northwood incurs in repairing or providing replacement Dispensers.

5.3 If breakage of a Dispenser can be demonstrated by the Customer to have been caused solely by deficiency in the design, faulty workmanship or fair wear and tear, and Northwood agrees that this is the case (acting in its sole discretion), then Northwood shall replace the broken Dispenser free of charge within a reasonable period of time.

### 6. ACCESS TO DISPENSERS

The Customer hereby irrevocably grants (and in relation to third party sites, shall procure the grant of) permission for representatives of Northwood and the Distributor to enter the Premises (or any other premises where the Dispensers are located, including any site owned, operated or managed by a third party) within normal business hours during the Term without prior written permission solely for the purpose of examining the condition of the Dispensers, verifying the Customer's compliance with the terms of this Agreement and exercising Northwood's rights and remedies pursuant to this Agreement.

### 7. WARRANTIES AND LIABILITY

7.1 To the extent that delivery times are agreed between Northwood and the Customer, times for delivery provided by Northwood are estimates only and whilst Northwood shall use its reasonable endeavours to comply with orders for Products placed by the Customer no warranty, representation or guarantee is given that delivery times will be met.

7.2 Nothing in this Agreement shall limit or exclude either party's liability for:

(a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

(b) fraud or fraudulent misrepresentation; or

(c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or

(d) any matter in respect of which it would be unlawful to exclude or restrict liability.

7.3 Northwood shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any: (i) loss of profit; (ii) loss of business; (iii) loss of revenue; or, (iv) any indirect or consequential loss arising under or in Northwood with this Agreement, in each case, howsoever arising and regardless of whether Northwood was informed of the loss or liability in advance.

7.4 Northwood's total liability to the Customer in respect of all other losses arising under or in Northwood with this Agreement, whether in contract, tort (including negligence), breach of statutory duty or otherwise shall not exceed the greater of: £500; or, the total price of the Dispensers ordered by the Customer in respect of which the claim relates (such price to be determined by reference to the prices displayed on Northwood's website at the time the claim arises).

### 8. ENTIRE AGREEMENT

This Agreement (and any document referred to in it) constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter. Each party acknowledges that, in entering into this Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this Agreement. Nothing in this clause shall limit or exclude any liability for fraud.

### 9. THIRD PARTY RIGHTS

9.1 A person who is not a party to this Agreement shall not have any rights under or in Northwood with it by virtue of the Contracts (Rights of Third Parties) Act 1999.

9.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any person that is not a party to this Agreement.

### 10. RIGHTS CUMULATIVE

Unless specifically provided otherwise, rights and remedies arising under this Agreement are cumulative and do not exclude rights and remedies provided by law.

### 11. NO PARTNERSHIP OR AGENCY

Except as expressly provided, nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, nor authorise a party to make or enter into any commitments for or on behalf of the other party.

### 12. GOVERNING LAW AND JURISDICTION

This Agreement and any dispute or claim arising out of or in Northwood with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the English courts.

### 13. DISPENSER PRICES

The retail price for each Dispenser will be as published by Northwood on its website, [click here to view](#).