

DS SMITH PACKAGING LIMITED

STANDARD PURCHASE CONDITIONS

1. INTRODUCTION

We are DS Smith Packaging Limited and we are purchasing goods or services from you. We are registered in England with company number 630681 and our registered office is 4 - 16 Artillery Row, London SW1P 1RZ.

We have issued a purchase order which incorporates these purchase conditions and

- a specification of what we have ordered
- the price we are to pay
- the delivery or collection details.

That is the whole of our agreement for this purchase and supersedes any previous agreement we may have had in relation to it. Save as provided under Clause 2 below, no variation to the agreement is valid unless it is in writing and is either signed or specifically agreed to in writing by our authorised representative.

You must not assign the benefit of the agreement without our prior written consent, which will not be unreasonably withheld.

You must supply the goods or services yourselves unless we have agreed in writing to accept them from someone else.

We may ask you to make the supply to any other company within the DS Smith Plc group and to deal with that other company as if they were us.

2. CANCELLATION AND VARIATION

We may cancel the purchase order at any time before the supply is made. If we do, we agree to pay you a reasonable charge for what you may have done under the agreement, and for any reasonable costs which you properly incurred before the cancellation and which cannot be recouped elsewhere. We have no other obligations to you.

We may suspend the purchase order at any time. If we do, for reasons other than your default, we agree to pay any reasonable additional costs you incur as a result. If we ask you to vary our order and agree with you an appropriate variation to the price and to the time scale for delivery, you agree to make the supply in accordance with those variations.

3. **PRICE AND PAYMENT**

The price is a fixed price apart from applicable VAT and any other tax imposed on the supply.

You will not invoice us until you have made the supply. We are to pay your invoice within 45 days after the end of the month in which the invoice is submitted. We reserve the right to withhold payment if we have a claim against you.

4. **WARRANTY AND DEFECTS**

You warrant to us that what you supply will be

- what we specified in the purchase order
- free from any defects
- provided with all reasonable care and skill.

If we become aware of any defects in goods or services supplied we may, at our discretion

- reject them and require you to replace them (if goods) or re-perform them (if services)
- accept them but require an appropriate reduction in price
- require you to carry out remedial work
- reject them, repudiate the agreement and claim from you any loss we suffer as a result.

These provisions are in addition to any other rights we may have.

5. **TIME**

Time is of the essence of this agreement. If a date for the supply is specified, and you do not make the supply by that date, we may treat that failure as a fundamental breach of the agreement. In that event we would have no further obligations to you but you would be liable to make good any loss to us.

6. **PASSING OF RISK AND TITLE**

Goods remain at your risk until

- they have been loaded onto the collection vehicle, if we are arranging their collection or
- they have been unloaded at the delivery address, if you are delivering them.

Goods become our property when:

- they have been unconditionally allocated to fulfil our purchase order, or (if earlier)
- we have paid any part of the price for them

If goods that belong to us are in your possession you must clearly label them as our property and keep them separate from goods belonging to you or others.

You agree to give us access (on reasonable notice) to any premises where goods are being manufactured or stored for us for any reasonable purpose under this agreement.

7. **TERMINATION**

We may terminate this agreement immediately on written notice if:

- you are in breach of an obligation and
- you cannot put it right
- you do not put it right within seven days of receiving notice from us to do so
- we have given you notice of a breach of the same obligation at least once before
- we reasonably believe that you will not be able to pay your debts as they fall due or that you will be unable to fulfil your obligations under this agreement.

On termination we have no further liabilities under the agreement.

8. **LIABILITY AND INSURANCE**

You agree to pay us on demand an amount sufficient to cover all liability, claims, damages, loss and expenses which may arise, directly or indirectly, as a result of:

- any breach by you of your obligations under the agreement

- your act, omission, neglect or default or that of your employees or agents or
- the termination of the agreement under clause 7.

You must maintain adequate insurance cover against risks you incur under this agreement and provide evidence of that cover at our request.

9. **GENERAL**

No benefits are to be conferred on any third party by this agreement.

If part of this agreement is invalid or unenforceable that does not affect the remainder. Invalidity or unenforceability in one jurisdiction does not affect validity or enforceability in another.

We are to own all intellectual property created under this agreement. Where necessary, you are to assign or procure the assignment of all such rights (including moral rights) to us.

Unless you object in writing, we may put your name and other details into a computerised directory. This will be only for our use and that of any other company within the DS Smith Plc group world-wide.

This agreement and its subject matter are confidential and must not be disclosed to any person without our permission.

Any reference in the agreement to communications being written or in writing includes electronic forms of communication such as e-mail. If we communicate with you electronically, it will be effective from when it leaves our mailbox. Any electronic communication from you to us will be effective when it arrives in our mailbox.

Provisions relating to warranties, limitation of liability, intellectual property, confidentiality and obligations on termination survive termination or expiration of this agreement.

English law applies to this agreement. We both accept the jurisdiction of the English Courts. We may also bring proceedings against you in other jurisdictions.

DS SMITH PACKAGING LIMITED

STANDARD SALE CONDITIONS

1. INTRODUCTION

We are DS Smith Packaging Limited and we are supplying goods to you. We are registered in England with company number 630681 and our registered office is 4 - 16 Artillery Row, London SW1P 1RZ.

We have issued a written acknowledgement of our agreement to make that supply. That acknowledgement incorporates these supply conditions (except where they are specifically amended in the acknowledgement) and

- a specification of the goods and any incidental services: if not, our standard specification will apply
- the price agreed
- the delivery or collection details.

That is the whole of our agreement for this supply and supersedes any previous agreement we may have had in relation to it. No variation to the agreement is valid unless it is in writing and either signed or specifically agreed to in writing by our authorised representative.

We are responsible for making the supply to you but we may arrange to do so through agents or subcontractors.

You must not assign the benefit of the agreement without our prior written consent, which will not be unreasonably withheld.

2. CANCELLATION AND VARIATION

You may cancel your order at any time before the supply is made. If you do, you are to pay us on demand a reasonable cancellation charge which takes into account all work we have done under the agreement, all costs we have incurred and any costs we are committed to pay, and our loss of profit.

If you ask us to vary your order and agree with us an appropriate variation to the price and to the time scale for delivery, we agree to make the supply in accordance with those variations.

We may vary the price by an amount sufficient to cover any significant increase in the cost of materials or other costs we incur to fulfil your order. We may also substitute suitable alternative materials without notice to you unless such substitution will result in a delay, in which case we will advise you of the estimated delay in fulfilling your order. If we are unable to fulfil your order within a reasonable time due to materials being unavailable for reasons beyond our reasonable control, we may cancel the order with no further obligation to you.

3. **PRICE**

Unless otherwise stated you are to pay, in addition to the agreed price:

- applicable VAT and any other tax imposed on the supply
- the cost of packaging, carriage and insurance
- the cost of any artwork, origination and printing stereotypes, the cost of tooling specifically required and die cutting costs.

4. **PAYMENT**

We will invoice you once the goods have been manufactured. You are to pay the invoice within 30 days. If you have a claim against us you must pay by the due date the amount not in dispute.

We are not obliged to supply any goods or services to you while any payment is overdue on this or any other agreement we may have with you.

5. **WARRANTY AND DEFECTS**

We warrant to you that the goods will be at the time of delivery free from any material defect due to faulty materials and workmanship and that any services will be provided with reasonable skill and care so long as:

- you give us full details of any defect immediately it becomes apparent
- the goods have not, in our view, suffered excess wear and tear by improper or careless use or storage, excessive stressing, improper installation, or the like.

All implied warranties or conditions are excluded to the extent permitted by law.

If you endorse on the delivery note that goods are unexamined and within 3 days of delivery notify us in writing of any defects we may, after inspecting the goods (and if we are satisfied that their condition has not deteriorated following delivery) at our discretion repair or replace the defective goods, or take them back and refund the price.

6. DELIVERY OR COLLECTION

We are to use reasonable endeavours to have the goods ready when agreed, but this is only an estimate of the delivery or collection date. You can only refuse to accept delivery after that date if

- *after* the date of our acknowledgement of your order you have sent us a written notice specifying a deadline date and
- we have specifically accepted that deadline date in writing.

Where we are delivering goods to you, you are responsible for unloading them. Where you fail to take delivery or collect goods in accordance with the agreement, you must pay on demand our storage and additional carriage costs.

You have no right to reject goods if they vary from the specification and that variation is not material to their use or functionality or is a variation in quantity which is within 10% of the quantity ordered (but we will in this case adjust the price to take account of the variation).

7. PACKAGING

We decide the appropriate method of packaging. Packages and wrappers are free and non-returnable.

We charge you for cases but refund that charge when you return the cases to us in good condition.

Pallets, carboys and any other packaging identified in the acknowledgement as belonging to us remain our property and must be returned to us within one month of delivery. If not we will invoice you for their replacement cost.

8. CUSTOMER APPROVALS

Where we supply proofs, printing details, artwork or other specimens for you to approve as complying with your order you must do so promptly and in writing. We are not responsible for any delay you cause. Our obligation is to supply the goods in

the form you approve. We are not responsible for any errors which you do not identify in writing at the time you give your approval.

All prices we give you for printing are made subject to our receiving suitable copy matter, and are on the basis that we can use our standard range of ink colours. Any deviations may result in an extra charge being made.

9. **PASSING OF RISK AND TITLE**

The goods are at your risk

- when you start loading them onto the collection vehicle, if you are collecting them or
- when you start unloading them at the delivery address, if we are responsible for delivery or
- from the agreed time for delivery or collection if you fail to accept delivery or to collect the goods as agreed.

The goods do not belong to you until we have received payment of the price and all additional payments due (whether under that order or under any other agreement between us) in full. Until then

- you hold the goods as our fiduciary agent, must clearly identify the goods (and any new product into which they are incorporated) as our property, and keep them properly stored and insured and
- we may enter your premises at any time to repossess the goods if you fail to pay the price and other payments when due or we reasonably believe that you will not be able to pay the price and other payments when due.

10. **TERMINATION**

Either of us may terminate this agreement immediately on written notice if the other is in breach of an obligation and cannot put it right or does not put it right within 21 days of receiving notice to do so. On termination any then existing claims which either of us has against the other remain in force.

We may terminate this agreement immediately on notice if we reasonably believe that you will not be able to pay the price or other payments when due and in that event we have no further liabilities under the agreement.

11. LIABILITIES

Samples, descriptions, illustrations, forecasts, brochures and other literature we may have supplied show only the general character of the goods and must not be relied on.

We do not seek to exclude or restrict our liability for death or personal injury caused by our negligence.

Where we or our employees or agents negligently damage your property when delivering goods, our total liability to you in respect of an event or series of connected events is limited to £500,000.

In respect of any other claims our liability is limited, to the maximum extent permitted by law, to any direct loss or damage up to the amount of the price paid for the goods giving rise to the claim.

We have no liability (directly or indirectly) for loss of business, revenue, opportunity or profits, anticipated savings or wasted expenditure, corruption or destruction of computer data or for any indirect or consequential loss whatsoever.

Neither of us is liable for any failure to fulfil our obligations to the other where such failure is due to circumstances beyond our reasonable control.

You agree to pay us on demand an amount sufficient to cover all liability, claims (including, but not limited to, any claim from a third party that we have infringed any intellectual property rights in the work carried out), damages, loss and expenses which may arise either directly or indirectly resulting from our acting reasonably in accordance with your instructions.

12. GENERAL

No benefits are to be conferred on any third party by this agreement.

If part of this agreement is invalid or unenforceable that does not affect the remainder. Invalidity or unenforceability in one jurisdiction does not affect validity or enforceability in another.

Where you leave any of your property with us you do so at your own risk. You must get a receipt for it.

We are to own all intellectual property created under this agreement. Where necessary, you are to assign or procure the assignment of all such rights (including moral rights) to us.

Unless you object in writing, we may put your name and other details into a computerised directory. This will be only for our use and that of any other company within the DS Smith Plc group world-wide.

This agreement and its subject matter are confidential and must not be disclosed to any person without our permission.

Any reference in the agreement to communications being written or in writing includes electronic forms of communication such as e-mail. If we communicate with you electronically, it will be effective from when it leaves our mailbox. Any electronic communication from you to us will be effective when it arrives in our mailbox.

Provisions relating to warranties, limitation of liability, intellectual property, confidentiality and obligations on termination survive termination or expiration of the agreement.

English law applies to the agreement. We both accept the jurisdiction of the English Courts. We may also bring proceedings against you in other jurisdictions.

DS SMITH PACKAGING LIMITED

STANDARD SERVICES CONDITIONS

1. INTRODUCTION

We are DS Smith Packaging Limited and we are supplying services to you. We are registered in England with company number 630681 and our registered office is 4 - 16 Artillery Row, London SW1P 1RZ.

We have issued a written acknowledgement of our agreement to make that supply. That acknowledgement incorporates these services conditions (except where they are specifically amended in the acknowledgement) and

- our proposal to you for the provision of services
- the price agreed
- full details of the services to be provided.

That is the whole of our agreement in relation to the services and supersedes any previous agreement we may have had in relation to them. No variation to the agreement is valid unless it is in writing and either signed or specifically agreed to in writing by our authorised representative.

You must not assign the benefit of the agreement without our prior written consent, which will not be unreasonably withheld.

2. PERFORMANCE

We are to provide the services, or to procure their provision, using the reasonable skill and care to be expected of a competent provider of those services. We will use reasonable endeavours to comply with any timetable agreed. If that timetable is critical you must draw that to our attention in writing *after* the date of our acknowledgement and obtain our written agreement to adhere to your timetable.

We are to advise you promptly of any circumstances which may affect the provision of the services, and of their potential effect.

3. VARIATION

If you request us to vary the services or provide additional services and agree with us an appropriate variation to the price and to the time scale, we agree to carry out those services in accordance with those variations.

4. YOUR OBLIGATIONS

You agree to pay the price when due in accordance with your agreement. Where the services are to be provided by us over a period exceeding one month, we may invoice you monthly. Invoices are payable within 30 days. If you have a claim against us you must pay by the due date the amount not in dispute.

We are not obliged to supply any services or goods to you while any payment is overdue on this or any other agreement we may have with you.

You are to provide when requested all information, assistance and facilities we may reasonably require in order to provide the services. You warrant that we may rely on any information or data that you provide as accurate and that any facilities you provide are fit for their purpose. You agree to pay us on demand an amount sufficient to cover us against any liability, loss or expenses which result from any breach of this warranty.

5. CONFIDENTIALITY

We undertake not to disclose to any third party any information you provide which you tell us is confidential, unless disclosure is necessary to allow us to provide the services and the third party also agrees to keep the information confidential. This undertaking does not apply to information which is, or becomes, public knowledge through no breach of confidentiality on our part or which we are required to disclose by any legal, statutory or regulatory authority.

6. TERMINATION

Either of us may terminate this agreement immediately on written notice if the other is in breach of an obligation and cannot put it right or does not put it right within 21 days of receiving notice to do so. On termination any then existing claims which either of us has against the other remain in force.

We may terminate this agreement immediately on notice if we reasonably believe that you will not be able to pay the price or other payments when due and in that event we have no further liabilities under the agreement.

7. WARRANTIES, CLAIMS AND LIMIT OF LIABILITY

All implied warranties or conditions are excluded to the extent permitted by law. We do not seek to exclude or restrict our liability for death or personal injury caused by our negligence. However, our liability is otherwise limited in total to an amount equal to the price payable for the services.

We have no liability (directly or indirectly) for loss of business, revenue, opportunity or profits, anticipated savings or wasted expenditure, corruption or destruction of computer data or for any indirect or consequential loss whatsoever.

We are providing the services only to you and have no liability of any kind to any third party, except where we have agreed in writing that the third party may rely on the services.

You agree to pay us on demand an amount sufficient to cover all liability, claims (including, but not limited to, any claim from a third party that we have infringed any intellectual property rights in the work carried out), damages, loss and expenses which may arise either directly or indirectly resulting from our acting reasonably in accordance with your instructions.

Neither party is liable to the other for any failure due to circumstances beyond its reasonable control.

8. GENERAL

No benefits are to be conferred on any third party by this agreement.

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