

DS SMITH GROUP - STANDARD PURCHASE CONDITIONS

1. INTRODUCTION

- a) "DS Smith", "we" or "our" are the member of the DS Smith group of companies referred to in the purchase order attached to these conditions; "you" or "your" are anyone from whom we are purchasing goods or services; and "us" means DS Smith and you.
- b) We have issued a purchase order which incorporates these purchase conditions ("Conditions" and together with the purchase order, the "Agreement") and:
 - a specification of what we have ordered
 - the price we are to pay
 - the delivery or collection details.
- c) That is the whole of our agreement for this purchase and supersedes any previous agreement we may have had with you in relation to it. These Conditions shall apply to and govern any contract between us to the exclusion of all other terms and conditions which may be contained in any quotation, catalogue, price list, order, acknowledgement or any other document (including, without limitation, any terms of conditions which you purport to apply under any acknowledgement, confirmation of order or other correspondence or documentation).
- d) 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.
- e) You must supply the goods or services (the "supply") yourselves unless we have agreed in writing to accept them from someone else.
- f) We may ask you to make the supply to any other company within the group of companies DS Smith belongs to and to deal with that other company as if they were DS Smith.

2. CANCELLATION AND VARIATION

- a) 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 purchase order, 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.
- b) 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.
- c) Save in respect of sub-clauses 2a) and b), any other variations to the purchase order must be agreed by DS Smith in writing or by the issue of a further official purchase order by DS Smith.

3. PRICE AND PAYMENT

- a) The price is a fixed price apart from applicable VAT and any other tax imposed on the supply.
- b) You will not invoice DS Smith until you have made the supply. We are to pay your correctly submitted invoice within 90 days after the end of the month in which the invoice is submitted unless otherwise agreed in writing or required by mandatory law (in which case such amended period or mandatory provision of law shall apply). We reserve the right to withhold payment if we have a claim against you or you have failed to provide the information required in accordance with sub-clause 3c).
- c) You shall send all invoices to DS Smith's accounts office address stated on the purchase order but not before the delivery date. All invoices for the supply should include DS Smith's order number reference and state the place to which the goods have been delivered or place at which the services were performed and a full description of goods or services provided.

4. WARRANTY AND DEFECTS

- a) You warrant to DS Smith that what your supply will be
 - in compliance with any and all applicable laws and regulations;
 - what we specified in the purchase order;
 - free from any defects; and
 - provided with all reasonable care and skill.
- b) If we become aware of any defects in goods or services supplied we may, at our discretion, do any one or more of the following:
 - 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.
- c) These provisions are in addition to any other rights we may have.

5. TIME

- a) 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 DS Smith.
- b) If no date is specified for the supply, you should deliver the goods or perform the services in a reasonable time from the date of the purchase order.

6. PASSING OF RISK AND TITLE

- a) 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.
- b) 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.
- c) If goods that belong to DS Smith are in your possession you must clearly label them as our property; keep them separate from goods belonging to you or others and keep them properly stored and insured.
- d) You shall give DS Smith access (on reasonable notice) to any premises where goods are being manufactured or stored for DS Smith for any reasonable purpose under this Agreement.

7. TERMINATION

- a) We may terminate this Agreement immediately on written notice if:
 - you are in breach of an obligation and
 - you cannot put it right; or
 - you do not put it right within seven days of receiving notice from DS Smith to do so; or
 - we have given you notice of a breach of the same obligation at least once before; or
 - 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.
- b) On termination we have no further liabilities under the Agreement.

8. LIABILITY AND INSURANCE

- a) You agree to pay DS Smith on demand an amount sufficient to cover any and all liabilities, claims, demands, damages, costs, losses, fees and expenses (including, without limitation legal fees and expenses on a full indemnity basis) which are

incurred by or brought against DS Smith or which may otherwise 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.
- b) You must maintain adequate insurance cover against risks you incur under this Agreement and provide evidence of that cover at our request.
 - c) We do not seek to exclude or restrict our liability for (i) death or personal injury caused by our negligence; (ii) fraud; or (iii) any other liability which cannot lawfully be limited or excluded.
 - d) Save in respect of our obligation to pay in accordance with clause 3(b), our liability in respect of any other claims is limited, to the maximum extent permitted by law, to any direct loss or damage up to 10% of the amount of the price paid for the goods giving rise to the claim.
 - e) We have no liability (directly or indirectly) for any loss of profit, business, revenue, opportunity, contracts, goodwill; or anticipated savings, wasted expenditure, corruption or destruction of computer data; or for any indirect or consequential loss whatsoever; whether caused by our negligence, breach of contract, tort, breach of statutory duty or otherwise arising out of or in connection with the Agreement.

9. GENERAL

- a) If any licence or consent of any government or other authority is required for the supply, carriage, storage or use of the goods or services supplied by you to DS Smith, you shall obtain the same at your own expense and if requested by DS Smith, produce evidence of the same to DS Smith.
- b) In providing the supply at our premises, you shall (and shall procure that your personnel shall) comply with all health and safety rules and regulations and security and other site operational requirements that apply at our premises (which are available upon your request). You shall also take all reasonable precautions to protect your employees and our employees while performing the services or delivering the goods.
- c) You shall, at your own expense, provide all equipment and materials to perform the services unless otherwise agreed in writing.
- d) No benefits are to be conferred on any third party by this Agreement and a person who is not a party to the Agreement shall have not have the right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.
- e) Any notice hereunder any notice given under the Agreement shall be in writing and served by delivering it personally or sending it by pre-paid recorded delivery or registered post to the registered address of DS Smith or you (as applicable). Any such notice shall be deemed to have been received:
 - if delivered personally, at the time of delivery; and
 - in the case of pre-paid recorded delivery or registered post 48 hours from the date of posting,
 provided that if deemed receipt occurs before 9am, on a business day the notice shall be deemed to have been received at 9am on that day, and if deemed receipt occurs after 5pm on a business day, or on a day which is not a business day, the notice shall be deemed to have been received at 9am on the next business day.
- f) Each provision of the Agreement is severable and distinct from the others. If any part of the Agreement is or at any times becomes to any extent invalid or unenforceable under any enactment or rule of law in any jurisdiction that does not affect the remainder and all other provisions of the Agreement will continue in full force and effect. If any provision of the Agreement is so found to be invalid, illegal or unenforceable, but would be valid, legal or enforceable if some part of the provision were deleted or amended, that provision will apply with whatever modification(s) as are necessary to make it valid, legal and enforceable. Invalidity or unenforceability in one jurisdiction does not affect validity or enforceability in another.
- g) 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 DS Smith.
- h) The Agreement and its subject matter are confidential and must not be disclosed to any person without our permission.
- i) Save in respect of sub-clause 9e), 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 DS Smith will be effective when it arrives in our mailbox.
- j) Provisions relating to warranties, limitation of liability, intellectual property, confidentiality and obligations on termination survive termination or expiration of this Agreement.
- k) You will at all times fully comply with the DS Smith Global Supplier Standard ("GSS") which can be found at [the supplier info webpage](#). In addition to our rights in clause 7, if, in our reasonable opinion, you have breached any provision of the GSS, we may immediately terminate any or all agreements between DS Smith and you by giving written notice to you.

10. ANTI-BRIBERY AND CORRUPTION

- a) In addition to your obligations to comply with applicable laws and regulations, you shall and shall procure that your officers and employees shall:
 - comply with all anti-corruption laws applicable to you or DS Smith (and for this purpose, the Bribery Act 2010 shall be deemed to apply whether or not it is in force and whether or not it applies to the you); and
 - not, directly or indirectly, either in private business dealings or in dealings with the public sector, offer, promise or give (or agree to offer, promise or give) any financial or other advantage with respect to any matters which are the subject of this or any other agreement between DS Smith and you and/or to obtain any benefit for DS Smith which would violate any anti-corruption laws applicable to the you or DS Smith (and for this purpose, the Bribery Act 2010 shall be deemed to apply whether or not it is in force and whether or not it applies to you).
- b) If you become aware of any breach or suspected breach of this clause 10, you shall promptly notify DS Smith and we may immediately suspend operation of the Agreement by giving written notice to you, pending an investigation into the breach or suspected breach. You shall assist DS Smith in any such investigation, including by providing DS Smith with access to your personnel, documents and systems.
- c) In addition to our rights in clause 7, if, in our reasonable opinion, you have breached this clause 10, we may immediately terminate any or all agreements between DS Smith and you by giving written notice to you.

11. GOVERNING LAW AND JURISDICTION

- a) The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including any non-contractual disputes or claims) will be governed by and construed with the laws of England.
- b) Subject to sub-clause 11c) below, DS Smith and you irrevocably agree and acknowledge that the courts of England are to have exclusive jurisdiction for the purpose of hearing and determining any suit, action or proceedings and/or to settle any disputes (including any non-contractual disputes or claims) arising out of or in any way relating to the Agreement or its formation or validity ("Proceedings") and for the purpose of enforcement of any judgment against its property or assets.
- c) Nothing in this clause 11 shall (or shall be construed so as to) limit the right of DS Smith to take Proceedings against you in the courts of any country in which you have assets or in any other court of competent jurisdiction nor shall the taking of Proceedings in any one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by applicable law.