

General Terms and Conditions of Sale and Delivery ("GTS") of DS Smith Packaging Austria GmbH

1. SCOPE OF APPLICATION

All deliveries and services (hereinafter uniformly referred to as deliveries) of DS Smith Packaging Austria GmbH ("**Seller**") are subject to these General Terms and Conditions of Sale and Delivery ("**GTS**"), unless otherwise agreed in writing. They only apply in the B2B area, i.e., to entrepreneurs within the meaning of Art. 1 para. 2 Consumer Protection Act (KSchG) ("**Buyer**").

By accepting them without objection, the Buyer agrees to the exclusive application of these GTS for the respective delivery as well as for all subsequent transactions without having to refer to them again in each individual case. The Buyer shall be informed immediately of any changes to the GTS. Deviating or supplementary terms and conditions of purchase of the Buyer shall only be valid if they have been accepted by the Seller in writing. These GTS shall also apply if the Seller carries out the delivery without reservation in the knowledge of conflicting or deviating terms and conditions of the Buyer.

2. OFFER, CONCLUSION OF CONTRACT, INFORMATION, GUARANTEES

- a) All offers made by the Seller are subject to confirmation. The Buyer's order for the goods shall only be deemed to be a binding offer to enter into a contract with the Seller within thirty (30) days of receipt of the non-binding offer.
- b) Statements as to quality and durability shall only be deemed to be guarantees if they are expressly designated as such by the Seller. The same applies to the assumption of a procurement risk.
- c) The information contained in data sheets, brochures and other information material shall only serve as a guideline and shall only become a binding part of the contract if the Seller has expressly agreed to this in writing.
- d) The contract shall only be concluded when the Seller has declared acceptance by written order confirmation. Subsequent verbal agreements require written confirmation by the Seller.

3. EXECUTION OF DELIVERY

- a) Unless otherwise agreed, delivery shall be made in accordance with INCOTERMS 2020 CPT.
- b) If the Buyer wishes to collect the goods or have them collected, the Seller's prior written consent is required. If the Buyer collects the goods from the Seller, the truck will be loaded by the Seller. The Buyer shall be responsible for securing the load with its own material and at its own expense, in compliance with the applicable regulations, and for unloading.
- c) If goods stored at the Seller's premises are held at the Buyer's disposal or sold for production without a shipping order (so-called call-off items), the Buyer shall accept these within four (4) weeks after notification of completion, unless otherwise agreed.

4. TRANSFER OF RISK

In the event of shipment of the goods, the risk of loss or damage shall pass to the Buyer upon dispatch of the goods at the latest, even if the Seller has assumed responsibility for shipment, transport or installation. If delivery is delayed due to circumstances for which the Buyer is responsible, the risk of loss or damage shall pass to the Buyer on the day of notification of readiness for delivery. Transport insurance shall only be taken out on the express instruction of the Buyer and at the Buyer's expense.

5. DELIVERY, DELIVERY TIME, PARTIAL AND MULTIPLE DELIVERIES

- a) The Seller's written order confirmation shall be decisive for the type and scope of the delivery unless the Buyer immediately objects to it in writing. The Seller is entitled to make partial deliveries.
- b) The delivery period shall be agreed individually or stated by the Seller upon acceptance of the order. The delivery period begins with the dispatch of the order confirmation, but not before clarification of all questions essential for the execution of the contract. If, after acceptance of the order, the Buyer requests changes which affect the production time, the delivery time shall

not commence until the changes have been confirmed. In particular, the delivery period shall not commence before the Seller has received all the necessary information or before the Buyer has proved that he has opened a letter of credit or made an advance payment or provided security in accordance with the contract. The Seller shall endeavour to meet agreed delivery deadlines. Should there be any delays in delivery, the Buyer will be informed as soon as possible.

- c) The Seller shall be entitled to make excess or short deliveries insofar as this is reasonable for the Buyer, taking into account the Seller's legitimate interests. A justified interest of the Seller exists in the event of circumstances arising after conclusion of the contract in connection with the fulfilment of the order which were not brought about by the Seller in bad faith. In this respect, the Seller's production processes in particular shall be taken into account. A delivery of up to (including) +/-10 % is agreed as customary in the industry and thus as reasonable.

Deviating from the above basic rule, deliveries of smaller order sizes shall be deemed reasonable to the following extent: up to 500 pieces up to (and including) +/- 20%, up to 1,500 pieces up to (and including) +/-15%. The quantity actually delivered shall be calculated in each case.

- d) If delivery is delayed due to circumstances for which the Buyer is responsible, the Seller may charge the storage costs incurred by him, starting one month after notification of readiness for delivery, but at least 0.5% of the invoice amount for each month. We reserve the right to assert further claims.
- e) In the aforementioned case (clause 5. d)), the Seller shall also be entitled to otherwise dispose of the goods after the fruitless expiry of a reasonable grace period, if possible.

6. DEFECTS IN DELIVERY, OBLIGATIONS OF THE BUYER IN THE EVENT OF NOTIFICATION OF DEFECTS BY HIS CUSTOMERS, REIMBURSEMENT OF EXPENSES, LIABILITY

- a) Warranty claims of the Buyer presuppose that he has duly fulfilled his statutory obligations to inspect the goods and to give notice of defects (Art. 377 et seq. of the Corporate Code (UGB)). The warranty period shall be three (3) months from the transfer of risk.

In the event of obvious defectiveness or incompleteness of the goods, the Buyer shall notify the Seller of the complaints in writing immediately after arrival of the delivery at the place of destination, stating the exact defect and the invoice number. At the Seller's request, receipts, samples, packing slips and/or the defective goods shall be returned to the Seller. In the event of water damage, the Buyer must already note this on the delivery note at the time of delivery.

In the case of defects which are not obvious, the Buyer must notify the Seller in writing immediately after discovery, at the latest within 48 hours, stating the exact nature of the defect and the invoice number.

Any claims of the Buyer on account of and in connection with the defectiveness or incompleteness of the delivery shall be excluded if the Buyer fails to comply with these obligations.

- b) If the goods are defective, the Seller may, at its discretion, remedy the defects or provide a replacement free of defects as supplementary performance. Only if this should repeatedly fail or be unreasonable for the Seller and the defects are not merely insignificant shall the Buyer be entitled to withdraw from the contract or reduce the purchase price in accordance with the statutory provisions.
- c) The Buyer may only assert claims for damages against the Seller arising from the acquisition of the goods to be subsequently delivered from third parties or from the involvement of third parties for subsequent delivery if he has previously set the Seller a reasonable grace period for supplementary performance without success.

In general, the Buyer shall only be entitled to any claims for damages in accordance with section 6. e) ff.

- d) In the event of recourse (Art. 933b of the General Civil Code (ABGB)), the Buyer shall inform the Seller without delay, but at

the latest within 48 hours, of a notification of defects by its customer with regard to the delivery items. If the Buyer does not comply with this obligation, he shall have no recourse whatsoever against the Seller. The parties further agree that in the event of recourse, the Buyer shall bear the burden of proof regarding the existence of the defect prior to the passing of risk to the Buyer if more than three (3) months have elapsed between such passing of risk and the resale by the Buyer.

- e) The Seller shall be liable without limitation under the Product Liability Act, in cases of express assumption of a guarantee as well as for intentional or grossly negligent breaches of duty. The Seller shall also be liable without limitation in the event of intentional or negligent injury to life, limb or health. The Seller's liability is excluded by mutual agreement for damage to property and financial loss caused by simple gross negligence or minor negligence.
- f) Claims for compensation for damage of any kind arising as a result of improper handling, modification, assembly and/or operation of the delivery items or as a result of incorrect advice or instruction by the Buyer are excluded, unless the Seller is solely responsible for them. In addition, the Buyer shall bear full responsibility for the use of any design, trademark or trade name appearing on the goods at his request.
- g) If the Buyer is entitled to claim damages instead of performance or to withdraw from the contract, he must declare at the Seller's request within a reasonable period of time whether and how he will make use of these rights. If he does not declare himself in due time or if he insists on performance, he shall only be entitled to exercise these rights after the fruitless expiry of a further reasonable grace period.
- h) Claims for damages shall become statute-barred twelve (12) months following knowledge of the damage and the damaging party. In the case of intentional or grossly negligent breaches of duty and in the case of injury to life, limb or health, the statutory limitation periods shall apply.
- i) Any further liability for damages than provided for in the preceding paragraphs of this clause 6. is excluded - regardless of the legal nature of the asserted claim.
- j) The aforementioned limitations of liability shall also apply in terms of reason and amount in favour of the legal representatives, employees and other vicarious agents of the Seller.

7. FORCE MAJEURE

All cases of force majeure, strikes, lock-outs, insufficient material or energy supplies, lack of transport facilities and other similar events or causes for which the Seller is not responsible and which could not have been foreseen by the Seller shall release the Seller from the obligation to perform the contract for the duration and to the extent of such hindrances, but for a maximum of eight (8) weeks. This shall also apply if these circumstances occur at the Seller's suppliers. The Seller shall inform the Buyer as soon as possible of the beginning and end of such impediments. Should the impediment persist after eight (8) weeks, the Buyer shall be entitled to withdraw from the contract.

8. PRICES, TERMS OF PAYMENT, DEFAULT

- a) Prices are exclusive of statutory value added tax. The Seller reserves the right to update its price list(s) at any time.
- b) The prices quoted in the order confirmation issued by the Seller are generally binding at the time of delivery, but in the event of changes in raw material, material prices, labour and/or operating costs, the Seller reserves the right to change the prices for deliveries not yet made. The Seller will notify the Buyer in writing and the Buyer may accept these changes or withdraw from the deliveries concerned.
- c) Any taxes applicable to the supply of goods or services will be added to the price and, depending on the rules of payment in force in the country concerned, will either be charged by the Seller in addition to the price or, if applicable, will be charged to the Buyer under the reverse charge procedure.

The Seller shall issue invoices that comply with the applicable legal provisions on the content of invoices. If this is not the case, the Seller shall issue corrective invoices within one (1) month after written request by the Buyer.

Where the Buyer arranges or is responsible for the cross-border transportation of Goods, the Buyer shall provide the Seller (prior to shipment of the Goods) with satisfactory proof of transportation to take account of any tax exemption (if relevant).

If any deduction or withholding for or on account of tax is required by law to be made by the Buyer, the amount payable by the Buyer to the Seller shall be the payment which would have been due if

such deduction or withholding had not been required.

- d) All invoices shall be payable within thirty (30) days of the date of invoice without any deduction unless otherwise agreed in writing. Receipt of payment on the Seller's accounts shall be decisive for compliance with payment deadlines. Cheques are only accepted on account of payment. Any expenses incurred shall be borne by the Buyer.
- e) In the event of default in payment, interest on arrears amounting to 10% above the respective base interest rate of the Austrian National Bank shall be deemed to have been agreed. We reserve the right to prove and claim further damage caused by default.
- f) The Seller shall not be obliged to fulfil the contract as long as the Buyer does not fulfil his obligations under other contracts with him as agreed, in particular does not pay due invoices.
- g) If there are several claims, the Seller is entitled to offset payments by the Buyer against his claims in the order of their maturity.
- h) The Buyer may only set off or withhold payment against claims that are undisputed or have been finally determined by a court of law.
- i) After the unsuccessful expiry of a reasonable grace period, the Seller shall be entitled to effect outstanding deliveries only against advance payment or to make them dependent on the provision of security if the Buyer is in arrears with agreed payment dates or if there are circumstances which, on the basis of customary banking standards, give rise to doubts as to the Buyer's solvency.

9. PERFORMANCE BY AFFILIATED COMPANIES

At the request and notification of the Seller, any of its obligations under the Contract may be performed by another company of the DS Smith Group. Due consideration shall be given to the legitimate interests of the Buyer. As long as the performance is equivalent, the relevant contractual obligations shall be deemed to be performed.

10. RESERVATION OF TITLE

- a) The delivered goods shall remain the property of the Seller until the purchase price and all other related claims of the Seller against the Buyer have been paid in full. In the event of breach of contract by the Buyer, in particular in the event of non-payment of the due purchase price or parts thereof, the Seller shall be entitled, in addition to the right to withdraw from the contract, to collect the goods or have them collected at the Buyer's expense on the basis of the agreed retention of title, even without the Buyer's consent.
- b) Any processing of the delivered goods by the Buyer shall be carried out on behalf of the Seller as manufacturer without any obligation on the part of the Seller. If the goods subject to retention of title are combined or inseparably mixed with other items not belonging to the Seller to form a uniform item and if this item is to be regarded as the main item, the Buyer hereby assigns to the Seller pro rata co-ownership insofar as the main item belongs to him. The Buyer shall keep the property thus created in safe custody for the Seller free of charge.
- c) The Buyer shall be entitled to sell the goods subject to retention of title in the ordinary course of business until the Seller withdraws from the contract in accordance with the above provision in clause 10. a). The Buyer hereby assigns to the Seller any claims arising therefrom. If the reserved goods are sold by the Buyer together with other items not supplied by the Seller, the assignment shall only apply to the amount of the values of the reserved goods sold in each case as stated in the Seller's invoice. In the event of the resale of items in which the Seller has co-ownership shares in accordance with clause 10. b), the assignment shall apply in the amount of these co-ownership shares. The assigned claims serve as security to the same extent as the reserved goods.
- d) If the assigned claim is included in a current account, the Buyer hereby assigns to the Seller a balance from the current account corresponding to the amount of this claim. The Buyer shall be entitled to collect the assigned claim until the Seller withdraws from the contract in accordance with the above provision in clause 10. a). At the Seller's request, the Buyer shall be obliged to notify its customers of the assignment in advance and to provide the Seller with the information and documents required for the assertion of the claim or to prepare the corresponding documents.
- e) The Buyer shall not be entitled to dispose of the reserved goods in any other way (pledges, assignments by way of security) or to make any other assignments of the claims referred to in clause 10. c). In the event of seizure or confiscation of the goods subject to retention of title, the Buyer shall point out the Seller's ownership and inform the Seller without delay.

The Buyer shall be obliged to insure the reserved goods adequately at its own expense against all usual risks, in particular against fire, burglary and/or water hazards, to handle them with care and to store them properly.

11. PROPERTY RIGHTS OF THIRD PARTIES, LITHOGRAPHS ETC.

- a) The responsibility for the observance of copyrights and other industrial property rights on the equipment of the goods specified by the Buyer shall be borne solely by the Buyer. In the event of claims for alleged infringement of third-party property rights, the Buyer shall indemnify the Seller upon first request.
- b) The Buyer grants to the Seller a non-exclusive royalty-free licence (together with the right to sub-licence to other DS Smith group companies and our or their sub-contractors) to copy, use and modify the Intellectual Property Rights in the Buyer's designs (e.g. goods, specifications, designs, logos, trademarks, prints, artwork, instructions or other information) to the extent necessary to enable the Seller to perform its obligations and deliver the Goods to the Buyer in accordance with the Contract. The Buyer represents and warrants to the Seller that the licence granted under this Contract in respect of the Tangible Intellectual Property does not infringe the intellectual property rights of any third party.
- c) Lithographs, printing plates, copy templates, printing blocks, matrices, embossing plates, punching tools and contours, printing cylinders and the like shall remain the property of the Seller unless otherwise stipulated in the agreements between the parties. A storage obligation for third-party printing documents, manuscripts and other items provided by the Buyer shall exist for a maximum of 24 months from the delivery of the last order produced herewith. After the expiry of this period, the Seller may destroy the aforementioned items without prior notice and without any claims on the part of the Buyer.

12. JURISDICTION, APPLICABLE LAW, TRANSFER OF RIGHTS, SEVERABILITY CLAUSE, DATA PROTECTION

- a) For all disputes arising out of or in connection with legal transactions based on these GTS, the exclusive jurisdiction of the competent court in Vienna, Innere Stadt (Austria) is agreed.
- b) Austrian law shall apply exclusively to all legal transactions subject to these GTS, under the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- c) The Buyer's rights arising from the contractual relationship may only be transferred with the prior written consent of the Seller.
- d) Should individual provisions of these GTS be invalid in whole or in part, all other provisions of these GTS shall remain valid. The invalid provision shall be replaced by another provision which is valid and which comes as close as possible to the invalid provision in terms of content and purpose.
- e) The Seller is entitled to process personal data in connection with the contractual relationship for this purpose. The corresponding legal requirements under The General Data Protection Regulation (DSGVO) and the Data Protection Act (DSG) shall be taken into account. Insofar as the Buyer transmits personal data of third parties, the Buyer shall be obliged to inform these persons about this and, if necessary, to obtain their consent. Further information on data protection can be found at www.dssmith.com.

13. SUPPLEMENTARY CONDITIONS FOR THE SALE OF CORRUGATED BOARD AND PRODUCTS MADE FROM CORRUGATED BOARD

- a) Prices: The expenses for templates, drafts, drawings, samples, die-cutting tools and printing plates required for the execution of the order are not included in the price and shall be reimbursed by the Buyer.
- b) Dimensions: Unless otherwise agreed, the internal dimensions

(length x width x height) shall apply to all corrugated cardboard packaging. The internal dimension is specified in mm.

- c) Warranty: The Seller does not assume any warranty or liability for deviations in the linen, smoothness, light fastness and purity of the papers, gluing, stitching, colours and printing which are customary in the industry.
- d) Pallets: The Seller or the forwarding agent commissioned by the Seller shall keep a pallet account to manage the stock of pallets and tarpaulins. Upon request, the Buyer shall receive a statement of the pallet account for the purpose of reconciling the balance. The records in the account shall be kept on the basis of shipping documents. The Buyer shall give a receipt for each pallet received. For each delivery of palletised goods, the Buyer shall return "step by step" the same number of pallets of equal value that he has received. Pallets not returned or returned damaged will be invoiced.

14. SUPPLEMENTARY CONDITIONS FOR PRINTED PRODUCTS

- a) Sketches, drafts, sample typesetting, sample prints, proofs, changes to supplied/transferred data and similar preparatory work initiated by the Buyer shall be invoiced. The same applies to data transmissions (e.g., via ISDN).
- b) The Seller shall have a right of retention to the printing and stamping templates, manuscripts, raw materials and other items supplied by the Buyer until all due claims arising from the business relationship have been met in full.
- c) The Buyer shall in any case immediately check the contractual conformity of the goods as well as the preliminary and intermediate products sent for correction. The risk of any defects shall pass to the Buyer upon the declaration of readiness for printing/readiness for production unless these are defects which have only arisen or could only be detected in the subsequent production process. The same applies to all other declarations of release by the Buyer.
- d) In the case of colour reproductions in all manufacturing processes, minor deviations from the original cannot be objected to. The same applies to the comparison between other originals (e.g., digital proofs, press proofs) and the final product.
- e) Supplies (including data carriers, transmitted data) by the Buyer or by a third party engaged by him shall not be subject to any duty of inspection on the part of the Seller. This does not apply to data that is obviously not processable or not readable. In the case of data transmissions, the Buyer shall use state-of-the-art computer virus protection programs prior to transmission. Data backup is the sole responsibility of the Buyer. The Seller shall be entitled to make a copy.
- f) Unless otherwise agreed, the trade standards and customs of the printing industry shall apply in addition.
- g) Products to which the Buyer is entitled, in particular data and data carriers, shall only be archived by the Seller after express agreement and against special remuneration beyond the time of handover of the end product. Unless otherwise agreed, the Buyer shall himself provide for appropriate insurance cover.
- h) The Buyer shall be solely liable if the rights of third parties, in particular copyrights, are infringed by the execution of his order. The Buyer shall indemnify the Seller against all claims of third parties due to such an infringement unless the Seller is solely responsible for the infringement.

DS Smith Packaging Austria GmbH, registered in the Austrian company register under registration number 108934Y, District Court Korneuburg, Heidestrasse 15, 2433 Margarethen am Moos, Austria

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