

FORUM PACKAGING LIMITED

STANDARD SALE CONDITIONS

1. INTRODUCTION

“We” are Forum Packaging Limited and “you” are anyone to whom we are supplying goods. We are registered in England with company number 7536149 and our registered office is Mareham Road, Horncastle, Lincolnshire, LN9 6NG. 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 no such specification exists, our standard specification will apply);
- the price agreed; and
- the delivery or collection details.
(together “the Agreement”)

The Agreement is the whole of our agreement for this supply and supersedes and extinguishes any previous agreement we may have had in relation to it. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us which is not set out within this Agreement. 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.

Unless otherwise agreed in writing between us, these conditions shall apply to and govern this Agreement to the exclusion of all other terms and conditions (including any terms or conditions which you purport to apply under any purchase order, confirmation of order or other correspondence or documentation).

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.

We reserve the right to amend the specification of the goods if required by any applicable statutory or regulatory requirements.

2. CANCELLATION AND VARIATION

You may cancel your order at any time before our first attempt to deliver the goods or otherwise make them available for you to collect. 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 terminate this Agreement with no further obligation to you.

Any other variation to this Agreement, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by us.

3. PRICE

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

- applicable VAT and any other tax imposed on the supply;
- the cost of packaging, carriage and insurance; and
- 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 without set-off or counterclaim. If you have a claim against us, you must notify us of it promptly and make all reasonable efforts to resolve the dispute amicably.

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

If any payment is late we may charge you interest at the rate of 3% above the base rate from time to time of the Royal Bank of Scotland on any overdue payment from the due date for payment until the date payment is made and charge you for all costs we incur in recovering the outstanding payment.

We will not set off any sums you owe to us against any sums we owe to you.

5. WARRANTY, DEFECTS AND INDEMNITY

We warrant to you that the goods will be at the time of delivery be free from any material defect due to faulty materials and workmanship and be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) 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;
- the defect has not arisen as a result of us following any drawing, design or specification you supplied; and
- the goods do not differ from their description as a result of changes we made to ensure they comply with applicable statutory or regulatory requirements.

All implied warranties or conditions are excluded to the fullest 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. These conditions shall apply to any repaired or replacement goods we supply.

You undertake to indemnify and hold us harmless from and against all liabilities, losses, damages, costs, charges, expenses (including without limitation legal fees and expenses on a full indemnity basis), actions, proceedings, claims and demands incurred by or brought against us:

- arising directly or indirectly out of or in connection with any breach of any of your obligations under any contract or any wilful default or negligence on your part or on the part of any of your officers, employees or agents in relation to the goods;

- resulting from our acting reasonably in accordance with your instructions (including, without limitation, any claim from a third party that we have infringed any intellectual property rights in the work carried out).

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.

We shall deliver the goods to the agreed location at any time after we notify you that the goods are ready. Alternatively, if we have agreed that you will collect the goods, you will do so from the agreed location within 3 days of us notifying you that the goods are ready for collection.

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 pursuant to this Clause 8. 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;
- 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 (in cash or cleared funds and whether due under this Agreement or under any other agreement between us). Until then:

- you may resell or use the goods only in the ordinary course of your business. This shall not include when you are, or are reasonably likely to soon become, insolvent or subject to any corporate recovery or insolvency procedure including, without limitation, administration, receivership, winding up, distress or the making of a composition with your creditors (or any analogous event in another jurisdiction).

- you hold the goods as our fiduciary agent;
- you must store the goods separately from all other goods you hold;
- you must clearly identify the goods as our property;
- you must not remove, deface or obscure any identifying mark or packaging on or relating to those goods;
- you must keep the goods 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 material 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.

Termination of this Agreement, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

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 (i) death or personal injury caused by our negligence; (ii) fraud or fraudulent misrepresentation; (iii) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or (iv) any other matter in respect of which it would be unlawful for us to exclude or restrict liability.

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 arising under or in connection with this Agreement.

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.

12. **GENERAL**

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

If any court or competent authority finds that any provision of the Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Agreement shall not be affected. 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.

No waiver by us of any breach of the Agreement by you shall be considered as a waiver of any subsequent breach of the same or any other provision. No single or partial exercise of any right or remedy by us shall preclude or restrict the further exercise of that or any other right or remedy.

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 which may be used to contact you with, for example, details of our goods and services. This will be only for our use and that of any other company within the Forum Packaging Limited group world-wide.

This Agreement, its subject matter and any information concerning our business, affairs, customers, clients or suppliers is confidential information and must not be disclosed to any person without our written consent. You may disclose our confidential information only (a) to those of your employees, officers, representatives or advisers who need to know such information for the purposes of carrying out your obligations under this Agreement or (b) as may be required by law, court order or any governmental or regulatory authority. You shall use our confidential information only for the purpose of performing your obligations under this Agreement.

Any notice or other communication given to a party under or in connection with the Agreement shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier, fax or e-mail. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to above; if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail the day of transmission. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

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

English law governs this Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims). We both accept the jurisdiction of the English Courts. We may also bring proceedings against you in other jurisdictions.