



DS SMITH RECYCLING - STANDARD PURCHASE CONDITIONS

1. INTRODUCTION

- a) "DS Smith", "we" or "our" are DS Smith Recycling UK Limited, with company number 214967 and its registered office at 350 Euston Road, London NW1 3AX; "you" or "your" are anyone from whom we are purchasing goods or services; and "us" means DS Smith and you, or DS Smith, as is required by the context.
- 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 94 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, in accordance with clause 3c, or you have failed to provide the information required in accordance with sub-clause 3d).
- c) Each of your invoices must be delivered within 3 months of our receipt of the relevant supply. If an invoice has not been delivered within 3 months of receipt, you will be deemed to have forfeited your right to payment in respect of the relevant supply. Once an invoice has been raised and/or paid, the parties agree that no amendment to that invoice will be permitted except with the agreement of DS Smith.
- d) 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.
- e) Where self-billing invoicing is directed by DS Smith, the parties agree to the self-billing terms set out in the Self-Billing Annex, which can be found at <https://www.dssmith.com/contentassets/51c028664e0d494f8f5c8ab0e30a7a90/ds-smith-recycling-self-billing-annex-21.06.19.pdf>.

4. WARRANTY AND DEFECTS

- a) You warrant that any goods (the "Material") you supply to DS Smith will be:
 - in compliance with any and all applicable laws and regulations;
 - what we specified in the purchase order and in compliance with the latest GB standards (EN643) or National Standards of the People's Republic of China GB16487.4-2017, as relevant;
 - free from any defects; and
 - in accordance with any standards / description specified in Schedule 1.
- b) If the applicable standards are revised you are obliged to review the specification of the supplied material. We reserve the right to inspect all material.
- c) The tolerance for Prohibited Materials (also referred to as Other Carried Wastes, as used in EN643) shall not exceed 0.5%.
- d) The moisture tolerance for the Material is 10%. DS Smith reserves the right to make a claim against moisture where this level is exceeded.
- e) Moisture reading and weights will be taken at the material's end destination.
- f) If we become aware of any defects in the Materials we may, at our discretion, do any one or more of the following:
 - reject the Material and require you to replace it
 - accept the Material but require an appropriate reduction in price
 - require you to carry out remedial work
 - reject the Material, repudiate the Agreement and claim from you any loss we suffer as a result.
- g) In addition to 3(e), failure to supply the Material in compliance with EN643 will result in you being fully responsible for all penalties and costs. Your responsibility will extend to haulage, storage, sorting and disposal costs if deemed necessary by us.
- h) We reserve the right to inspect the Material, without notice, prior to or during loading. Your refusal to facilitate such inspections could result in the purchase order being cancelled with any associated costs being passed on to you.
- i) You will be responsible for all costs associated with load cancellations, wasted journeys, demurrage or substandard Goods being found upon inspection. We reserve the right to downgrade the value of a purchase order if the goods do not meet the agreed standards.
- j) These provisions are in addition to any other rights we may have.

5. TIME

- a) 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) Risk and title in the goods shall pass to DS Smith in accordance with the relevant INCOTERM stated in the purchase order.
- b) If no INCOTERM is stated in the purchase order, 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.
- c) If no INCOTERM is stated in the purchase order, 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.

- d) 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.
- e) 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
 - o you cannot put it right; or
 - o you do not put it right within seven days of receiving notice from DS Smith to do so; or
 - o 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 no 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.

10. COMPLIANCE

- 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 the DS Smith Global Supplier Standard or DS Smith Global Supplier Requirements, as applicable;
 - comply with the Bribery Act 2010 and all anti-corruption laws applicable to you or DS Smith ("Anti-corruption Laws");
 - 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 the Anti-corruption Laws.
 - comply with the Modern Slavery Act 2015 and all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force applicable to you or DS Smith;
 - ensure that neither you nor any of your senior officers have been convicted of any offence involving slavery and human trafficking, nor have been or are the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking;
 - not, when acting in the capacity of a person associated with DS Smith, engage in any act or omission which would constitute a UK tax evasion facilitation offence or a foreign tax evasion facilitation offence as those terms are defined in Part 3 of the Criminal Finances Act 2017; and

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- not cause, facilitate or contribute to the commission of an offence of failing to prevent the facilitation of tax evasion under section 45 or 46 of the Criminal Finances Act 2017 or any other legal and regulatory anti-facilitation of tax evasion obligations.
 - b) If you become aware of any breach or suspected breach of this clause 10 by you or your subcontractors, 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 reasonable access to your personnel, documents and systems.
 - c) In addition to our rights in clause 7, if, in our reasonable opinion, you or your subcontractors have breached this clause 10, we may, in our sole discretion, on written notice, immediately: (i) terminate any or all agreements between DS Smith and you; and (ii) suspend operation of the Agreement by giving written notice to you.
 - d) In relation to tax evasion offences, the question of whether a person is associated with another person shall be determined in accordance with section 44 of the Criminal Finances Act 2017 (and any guidance issued under section 47 of that Act)
- 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) The parties irrevocably agree and acknowledge that the courts of England have exclusive jurisdiction for the purpose of hearing and determining any suit, action or proceedings.