

BARTON JONES PACKAGING LTD | TERMS AND CONDITIONS OF SALE

These Terms and Conditions apply to the supply of goods and related services by Barton Jones Packaging Ltd to business customers. They are intended to govern quotations, orders, bespoke manufacture, printed and unprinted packaging, stockholding and call-off arrangements, bought-in packaging products and associated services.

1. DEFINITIONS

1.1 In these Conditions:

“Buyer” means the person, firm or company purchasing or agreeing to purchase Goods from the Seller.

“Conditions” means these Terms and Conditions of Sale as amended from time to time in accordance with clause 2.

“Contract” means the contract between the Seller and the Buyer for the sale and purchase of Goods incorporating these Conditions.

“Delivery Location” means the location specified in the Order or otherwise agreed by the Seller.

“Goods” means any goods, products or materials supplied or to be supplied by the Seller, including corrugated packaging, cartons, boxes, sheet board, packaging products, bespoke products, printed products and associated materials.

“Order” means the Buyer’s order for Goods, whether made by purchase order, email, electronic ordering system or otherwise.

“Seller” means Barton Jones Packaging Ltd.

“Specification” means any specification for the Goods agreed in writing between the Seller and Buyer, including dimensions, materials, board grades, drawings, designs, print specifications and artwork.

1.2 References to “writing” or “written” include email.

1.3 Headings are for convenience only and do not affect interpretation.

2. BASIS OF CONTRACT

2.1 These Conditions apply to all Contracts between the Seller and Buyer to the exclusion of any other terms which the Buyer seeks to impose or incorporate, including any terms contained in or referred to in a purchase order, supplier portal, specification, acknowledgement, correspondence or other document.

2.2 An Order constitutes an offer by the Buyer to purchase Goods subject to these Conditions.

2.3 An Order shall only be deemed accepted when the Seller issues written acceptance or order acknowledgement, or commences manufacture, procurement or supply of the Goods, at which point the Contract shall come into existence.

2.4 Quotations issued by the Seller do not constitute offers and, unless otherwise stated, shall remain valid for 30 days from their date.

2.5 No variation of these Conditions or the Contract shall be binding unless agreed in writing by an authorised representative of the Seller.

2.6 The Buyer acknowledges that it has not relied upon any statement, representation or warranty not expressly incorporated into the Contract.

3. ORDERS, SPECIFICATIONS AND CUSTOMER RESPONSIBILITY

3.1 The Buyer is responsible for ensuring that the terms of its Order and any Specification supplied by it are complete and accurate.

3.2 Where Goods are manufactured, printed or supplied according to the Buyer’s drawings, dimensions, samples, specifications, artwork, instructions or other requirements, the Seller shall be entitled to rely upon the accuracy and completeness of that information.

3.3 Unless the Seller expressly agrees otherwise in writing, the Buyer is responsible for determining whether the Goods are suitable for: (a) the products to be contained within them; (b) the weight and nature of those products; (c) the Buyer’s filling, packing and production processes; (d) transportation and distribution; (e) stacking and storage; (f) environmental conditions; (g) food contact or other regulated applications; and (h) any particular end use.

3.4 Advice, recommendations, samples or technical information supplied by the Seller are given in good faith but shall not relieve the Buyer of its responsibility to test and approve the Goods for its intended application.

3.5 The Seller reserves the right to amend a Specification where required to comply with applicable law, regulatory requirements or reasonable technical or manufacturing requirements, provided that any such amendment does not materially alter the agreed nature of the Goods.

4. ARTWORK, PROOFS AND PRINTING

- 4.1 Where printed Goods are supplied, the Buyer shall be responsible for checking and approving all artwork, proofs, text, dimensions, barcodes, product information, symbols, colours and other information before production.
- 4.2 Approval by the Buyer of artwork or a proof constitutes authority for the Seller to proceed with manufacture.
- 4.3 The Seller shall not be responsible for errors contained in artwork, proofs or specifications approved or supplied by the Buyer.
- 4.4 Unless expressly agreed otherwise, colours shown on electronic displays, office printers, proofs or samples are indicative only.
- 4.5 Reasonable variations in print colour, shade, position, registration, coverage and finish arising from normal production processes or differences in substrate shall not constitute a defect.
- 4.6 The Buyer shall indemnify the Seller against claims, losses, damages, costs and expenses reasonably incurred as a result of the Seller's use of artwork, trademarks, designs, wording or other materials supplied or specified by the Buyer which infringe the intellectual property or other rights of any third party.

5. MANUFACTURING TOLERANCES

- 5.1 The Buyer acknowledges that corrugated packaging and other packaging products are manufactured using industrial processes and may be subject to reasonable manufacturing tolerances.
- 5.2 Unless a particular tolerance has been expressly agreed in writing, reasonable commercial and industry manufacturing tolerances shall apply in relation to matters including dimensions; board thickness and caliper; paper and board characteristics; weight and grammage; moisture content; cutting, creasing and slotting; folding and joint alignment; print position and registration; colour and shade; and quantity supplied.
- 5.3 Goods falling within the expressly agreed tolerance, or otherwise within reasonable manufacturing tolerances applicable to the relevant manufacturing process, shall be deemed to conform to the Contract.
- 5.4 Where a precise quantity is essential, the Buyer must notify the Seller and obtain written agreement before manufacture.
- 5.5 Unless otherwise agreed in writing, the Buyer shall pay for the actual quantity supplied.

6. SAMPLES AND PRODUCT DEVELOPMENT

- 6.1 Any sample supplied by the Seller is intended to indicate the approximate characteristics of the Goods only unless expressly agreed otherwise.
- 6.2 Samples, prototypes, drawings, designs and development work remain the property of the Seller unless otherwise agreed in writing.
- 6.3 Where the Seller undertakes design, sampling, testing or development work at the Buyer's request, the Seller may charge reasonable development and sampling costs.
- 6.4 Approval of a production sample by the Buyer shall constitute acceptance of the relevant design and Specification.

7. PRICE

- 7.1 The price of the Goods shall be the price stated in the Seller's quotation or order acknowledgement.
- 7.2 Unless otherwise stated, prices exclude VAT, carriage and delivery charges, pallets and specialist packaging, tooling, printing plates and dies, storage charges and any other charges separately identified by the Seller.
- 7.3 VAT shall be payable at the applicable rate.
- 7.4 Unless expressly stated to be fixed, the Seller may increase the price before manufacture or supply to reflect increases in costs outside the Seller's reasonable control, including paper, board and other raw materials; energy; transport and fuel; labour; duties, taxes or tariffs; exchange rates affecting purchased materials; or supplier charges.
- 7.5 The Seller shall notify the Buyer of any material price adjustment as soon as reasonably practicable.

8. PAYMENT

- 8.1 Unless otherwise agreed in writing, invoices are payable within 30 days of the invoice date.
- 8.2 Time for payment shall be of the essence.
- 8.3 The Buyer shall pay invoices in full without deduction, withholding, counterclaim or set-off except where required by law.

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8.4 If any amount is overdue, the Seller may, without prejudice to any other rights: suspend manufacture; suspend or cancel further deliveries; refuse to release stock held for the Buyer; withdraw or reduce any credit facility; require payment in advance for existing or future Orders; and/or require security for payment.

8.5 The Seller reserves all rights available to it under applicable late-payment legislation, including the right to claim statutory interest, fixed compensation and qualifying recovery costs where applicable.

8.6 The Buyer shall reimburse the Seller for reasonable costs incurred in recovering overdue sums to the extent permitted by law.

8.7 The Seller may apply any payment received from the Buyer against any invoice or liability owed by the Buyer as the Seller reasonably determines.

9. CREDIT FACILITIES

9.1 Any credit facility provided to the Buyer is at the Seller's discretion and may be withdrawn or reduced at any time.

9.2 The Seller may obtain and review credit information concerning the Buyer.

9.3 If the Seller reasonably believes the Buyer's financial position or creditworthiness has deteriorated, the Seller may require advance payment or security before continuing manufacture or delivery.

10. DELIVERY

10.1 Any delivery date or time stated by the Seller is an estimate unless expressly agreed in writing to be guaranteed.

10.2 Time for delivery shall not be of the essence.

10.3 The Seller shall use reasonable endeavours to meet estimated delivery dates but shall not be liable solely by reason of delay caused by circumstances outside its reasonable control.

10.4 The Seller may deliver Goods in instalments and invoice each instalment separately.

10.5 Delay or defect in one instalment shall not entitle the Buyer to cancel any other instalment or Order.

10.6 Delivery shall be completed when the Goods are unloaded at the Delivery Location or, where collected by the Buyer or its carrier, when the Goods are made available for collection.

10.7 The Buyer shall provide suitable access, facilities, personnel and equipment reasonably required for delivery.

10.8 Where delivery cannot be completed because of the Buyer's act or omission, the Seller may store the Goods, charge reasonable storage, handling and redelivery costs, and treat delivery as having taken place for invoicing and risk purposes.

11. STOCKHOLDING, CALL-OFF AND BESPOKE GOODS

11.1 Where the Seller manufactures, purchases or holds Goods, materials or components specifically for the Buyer, the Buyer acknowledges that such items may have limited or no resale value to the Seller.

11.2 Where a stockholding or call-off arrangement is agreed, the Buyer shall take delivery of the Goods in accordance with the agreed schedule.

11.3 Unless otherwise agreed in writing, forecasts supplied by the Buyer are indicative only. However, where the Seller has expressly been authorised by the Buyer to manufacture or procure Goods or customer-specific materials against an agreed forecast or stockholding requirement, the Buyer shall be responsible for those quantities and commitments.

11.4 Where bespoke finished Goods have been manufactured against a confirmed Order, the Buyer shall be liable for those Goods whether or not it subsequently requires them.

11.5 If the Buyer cancels an Order, changes its Specification, changes its branding or artwork, ceases purchasing a particular product, fails to call off stock within an agreed period, or otherwise causes customer-specific stock or materials to become obsolete, the Seller may invoice the Buyer for the reasonable value or cost, as applicable, of finished Goods, work in progress, customer-specific raw materials, printed or converted materials, tooling specifically obtained for the Buyer, materials purchased or committed to suppliers specifically for the Buyer, and reasonable storage and disposal costs.

11.6 Unless a different period is agreed, the Seller may require the Buyer to take and pay for bespoke finished stock which has remained in storage for more than six months following manufacture or the originally anticipated call-off date.

11.7 The Seller may charge reasonable storage fees for Goods held beyond an agreed storage period.

11.8 The Seller may, after giving reasonable written notice, dispose of obsolete or uncollected Goods for which the Buyer is responsible. Disposal shall not relieve the Buyer of liability for amounts properly due.

12. CANCELLATION AND CHANGES

12.1 An Order accepted by the Seller may not be cancelled or materially changed without the Seller's written consent.

12.2 Where cancellation or alteration is accepted, the Buyer shall pay the Seller for reasonable costs and liabilities incurred as a consequence, including Goods already manufactured, work in progress, raw materials purchased or committed, supplier cancellation charges, tooling and artwork costs, and other irrecoverable costs reasonably incurred in fulfilling the Order.

12.3 Nothing in this clause requires the Buyer to pay costs which the Seller has reasonably avoided or recovered elsewhere.

13. TOOLING, PRINTING PLATES AND EQUIPMENT

13.1 Unless otherwise expressly agreed in writing, all dies, cutting formes, printing plates, tooling, CAD files, production drawings and manufacturing equipment produced or obtained by the Seller shall remain the Seller's property, notwithstanding that the Buyer may have contributed towards their cost.

13.2 Tooling shall be used solely in accordance with the relevant arrangements between the parties.

13.3 The Seller may dispose of tooling which has not been used for a reasonable period after giving the Buyer reasonable notice where practicable.

13.4 Replacement tooling required through normal wear and tear may be charged to the Buyer where appropriate and agreed.

14. INSPECTION AND CLAIMS

14.1 The Buyer shall inspect the Goods promptly following delivery.

14.2 Any shortage, transit damage or defect reasonably apparent on inspection must be notified to the Seller in writing within 5 working days of delivery.

14.3 Any other defect which could not reasonably have been identified on initial inspection must be notified to the Seller promptly after discovery and within a reasonable period having regard to the nature of the Goods and defect.

14.4 A claim must provide sufficient details to allow the Seller to investigate, including where reasonably available: Order or invoice number; product details; quantities affected; photographs; batch or production information; and samples of the affected Goods.

14.5 The Buyer shall give the Seller a reasonable opportunity to inspect the Goods before they are altered, destroyed, returned or disposed of.

14.6 The Buyer shall take reasonable steps to prevent further loss once a suspected defect has been identified.

14.7 Notification of a claim shall not entitle the Buyer to withhold payment for Goods which are not genuinely disputed.

15. QUALITY AND REMEDIES

15.1 The Seller warrants that, at delivery, the Goods shall materially conform to the agreed Specification, subject to the manufacturing tolerances set out in these Conditions.

15.2 Where Goods are proven to be defective and the Seller is responsible for that defect, the Seller may, at its option and subject to applicable law, replace the affected Goods, repair or rectify them where reasonably practicable, issue a credit in respect of the affected Goods, or refund the price paid for the affected Goods.

15.3 The Seller shall not be responsible for defects or deterioration caused by improper storage; excessive humidity, moisture, dryness, heat or cold; exposure to weather; incorrect stacking or handling; misuse; overloading; unsuitable contents; alteration or processing after delivery; failure to follow reasonable instructions; fair wear and tear; or the Buyer's own specification, design or materials.

15.4 Corrugated and paper-based packaging is sensitive to environmental conditions. The Buyer is responsible for storing Goods in suitable dry and stable conditions and protecting them from moisture, excessive humidity and other adverse conditions.

16. LIMITATION OF LIABILITY

16.1 Nothing in these Conditions shall limit or exclude any liability which cannot lawfully be limited or excluded, including liability for death or personal injury caused by negligence, fraud or fraudulent misrepresentation, or any other liability which cannot legally be excluded or limited.

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16.2 Subject to clause 16.1, the Seller shall not be liable for loss of profit, loss of revenue, loss of business, loss of production, loss of anticipated savings, loss of contracts, loss of goodwill, or indirect or consequential loss arising from or in connection with the Contract.

16.3 Subject to clause 16.1, the Seller's total aggregate liability arising out of or in connection with a Contract, whether in contract, tort (including negligence), breach of statutory duty or otherwise, shall not exceed 100% of the price paid or payable for the Goods under the Order giving rise to the claim.

16.4 Nothing in these Conditions shall require the Buyer to pay for Goods which the Seller has accepted are defective and for which a credit or refund has been agreed.

16.5 The parties acknowledge that the limitations in this clause are intended to allocate commercial risk between businesses and have been taken into account in determining the prices charged by the Seller.

17. TITLE AND RISK

17.1 Risk in the Goods shall pass to the Buyer on completion of delivery.

17.2 Title to the Goods shall not pass to the Buyer until the Seller has received in cleared funds all sums due to the Seller from the Buyer in respect of the Goods and all other amounts due from the Buyer to the Seller.

17.3 Until title passes, the Buyer shall, so far as reasonably practicable, hold the Goods as the Seller's bailee, store the Goods separately or otherwise identify them as belonging to the Seller, keep the Goods in satisfactory condition, and not remove or obscure identifying marks.

17.4 Subject to clause 17.5, the Buyer may resell or use the Goods in the ordinary course of its business before title passes.

17.5 The Buyer's right to possess, use or resell Goods to which the Seller retains title shall cease immediately if the Buyer becomes subject to an insolvency event or the Seller validly terminates that right following material payment default.

17.6 Where legally entitled to do so, the Seller may require the Buyer to return Goods to which the Seller retains title and, if the Buyer fails to do so, may seek lawful recovery of those Goods.

18. INTELLECTUAL PROPERTY

18.1 Intellectual property created independently by the Seller or developed by the Seller in connection with manufacturing methods, structural designs, drawings, CAD work, processes and know-how shall remain the Seller's property unless expressly assigned in writing.

18.2 Intellectual property supplied by the Buyer shall remain the property of the Buyer or its relevant owner.

18.3 The Buyer grants the Seller a licence to use Buyer-supplied intellectual property to the extent necessary to perform the Contract.

18.4 The Buyer warrants that materials, artwork, trademarks, designs and specifications supplied by it may lawfully be used by the Seller for the purposes of the Contract.

19. CONFIDENTIALITY

19.1 Each party shall keep confidential commercially sensitive information received from the other in connection with the Contract and shall not disclose it except to employees, professional advisers, contractors or subcontractors who need the information for performance of the Contract; where required by law; or with the other party's consent.

19.2 This obligation shall not apply to information which is already lawfully in the public domain or independently obtained without breach of confidence.

20. FORCE MAJEURE

20.1 The Seller shall not be liable for delay or failure in performance caused by circumstances beyond its reasonable control.

20.2 Such circumstances may include natural disasters; flood, fire or severe weather; epidemic or pandemic; war, terrorism, civil disturbance or government action; strikes or industrial disputes; interruption of utilities; machinery or equipment failure not reasonably preventable; transport disruption; shortages or disruption in the supply of paper, board, raw materials or energy; failure or delay by suppliers or subcontractors caused by circumstances beyond their reasonable control; and import, export or customs restrictions.

20.3 The Seller shall use reasonable endeavours to minimise the effects of such an event.

20.4 Where the event continues for a prolonged period and materially prevents performance, either party may terminate the affected unperformed part of the Contract by written notice, subject to payment for Goods, materials and work properly supplied or committed before termination.

21. INSOLVENCY AND TERMINATION

21.1 The Seller may suspend performance or terminate any Contract immediately by written notice if the Buyer fails to pay an amount when due and remains in default after reasonable notice; becomes insolvent or unable to pay its debts; enters administration, liquidation or a voluntary arrangement with creditors; has a receiver appointed over its assets; ceases or threatens to cease trading; or suffers an equivalent event in any jurisdiction.

21.2 On termination, all invoices and amounts properly due to the Seller shall become immediately payable.

21.3 Termination shall not affect rights or liabilities which accrued before termination.

22. SUBCONTRACTING AND ASSIGNMENT

22.1 The Seller may subcontract any part of the manufacture, processing, transport, storage or supply of Goods.

22.2 The Buyer may not assign or transfer its rights or obligations under a Contract without the Seller's prior written consent.

22.3 The Seller may assign or transfer its rights under the Contract as part of a bona fide financing, restructuring or transfer of its business, provided this does not materially reduce the Buyer's contractual rights.

23. DATA PROTECTION

23.1 Each party shall comply with applicable data protection legislation in relation to personal data processed in connection with the Contract.

23.2 The Seller may process business contact information for purposes including account administration, order processing, delivery, credit control and maintaining its commercial relationship with the Buyer.

24. NOTICES

24.1 Any formal notice under a Contract shall be in writing and sent to the registered office, principal business address or notified email address of the relevant party.

24.2 This clause does not apply to service of legal proceedings.

25. WAIVER

25.1 Failure or delay by the Seller in exercising any right shall not constitute a waiver of that right.

25.2 A waiver on one occasion shall not constitute a waiver of any subsequent breach.

26. SEVERABILITY

26.1 If any provision of these Conditions is found to be invalid, unlawful or unenforceable, that provision shall be treated as modified to the minimum extent necessary to make it enforceable or, if that is not possible, deleted.

26.2 The remaining provisions shall continue in full force.

27. ENTIRE AGREEMENT

27.1 The Contract constitutes the entire agreement between the parties concerning its subject matter and supersedes previous discussions, correspondence and representations relating to that Contract.

27.2 Nothing in this clause excludes liability for fraud or fraudulent misrepresentation.

28. THIRD-PARTY RIGHTS

28.1 Unless expressly stated otherwise, no person other than the Seller and Buyer shall have any right to enforce any term of the Contract under the Contracts (Rights of Third Parties) Act 1999.

29. GOVERNING LAW AND JURISDICTION

29.1 These Conditions and every Contract shall be governed by the laws of England and Wales.

29.2 The courts of England and Wales shall have exclusive jurisdiction to determine any dispute arising out of or in connection with a Contract.

DOCUMENT CONTROL

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