

DPS BUSINESS SUPPLIES

TERMS & CONDITIONS OF SALE

These Terms & Conditions of Sale ("Terms") are the standard terms on which DPS supplies Goods to the Customer. Unless otherwise expressly agreed in writing, these Terms apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. By ordering any Goods from DPS, the Customer agrees to be bound by these Terms. DPS only sells to Customers that are businesses, for use in their business.

1. DEFINITIONS

"Business Day"	means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
"Contract"	means any contract between DPS and the Customer for the sale of Goods;
"Customer"	means the firm or organisation that requests a Quote, places an Order and/or enters into a Contract with DPS;
"DPS"	means DPS Business Supplies, a trading division of Digital Post Solutions Limited, a company registered in England and Wales under company number 05515357 and with its registered office at 28 West Street, Dunstable, Bedfordshire LU6 1TA and VAT Number 870362036;
"DPS Website"	means the website operated by DPS at www.dps-business-supplies.co.uk ;
"Force Majeure Event"	has the meaning given in clause 11.2;
"Goods"	means the Goods (or any part of them) set out in the Order;
"Online Account"	means the electronic account set up by the Customer in accordance with clause 3.3;
"Online Order"	means an Order submitted via the DPS Website;
"Order"	means the Customer's request for DPS to supply Goods submitted in accordance with clause 3;
"Quote"	means the quotation given by DPS to the Customer for Goods specified by the Customer;
"Quote Request"	means a request for a Quote submitted by the Customer on the DPS Website.

2. **QUOTES**

- 2.1 The Customer may request a Quote by telephone, email or post using the contact details set out in clause 14.2 or by submitting a Quote Request. Any request for a Quote must specify the Goods and quantities required and the delivery address.
- 2.2 Following receipt of the Customer's request, DPS will provide a quote within 1 Business Day.
- 2.3 The Quote will set out the price of the Goods, any applicable delivery charges and any VAT or other sales taxes payable.
- 2.4 Unless otherwise specified in the Quote, a Quote shall be valid for 30 days from the date of issue.
- 2.5 A Quote for Goods shall not constitute an offer.

3. **ORDERS**

- 3.1 The Customer may place an Order:
 - 3.1.1 following receipt of a Quote, by telephone, email or post using the contact details set out in clause 14.2; or
 - 3.1.2 by placing an Online Order in accordance with clause 3.3.
- 3.2 The Order constitutes an offer by the Customer to purchase Goods in accordance with these Terms which shall only be deemed accepted when DPS notifies the Customer either verbally or in writing that the Order is accepted, or upon DPS appropriating the Goods to the Contract, at which point the Contract will come into existence.
- 3.3 In order to place an Online Order, the Customer will first need to create an online account on the DPS Website by selecting a username and password and providing DPS with its contact details (including a valid email address).
- 3.4 All Goods are subject to availability. If DPS is unable to supply the Customer with the Goods specified in the Order, for example because the Goods are not in stock or no longer available, DPS will inform the Customer of this by e-mail and the Customer may elect to cancel the Order or, if possible, to wait until the Goods become available. If the Customer elects to cancel the Order any payment already made in respect of the Goods will be refunded.
- 3.5 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of DPS which is not set out in the Contract. Nothing in this clause 3.5 shall exclude liability for fraudulent misrepresentation.
- 3.6 DPS does not sell to consumers. The Customer warrants that it is buying the Goods for internal business use only, and not for re-sale.

- 3.7 In an online purchase by a sole trader, the person completing the Online Order as "Customer" confirms that they are acting as a business and that they have authority to bind the business on whose behalf they are purchasing the Goods.
- 3.8 In an online purchase by a partnership, the person completing the Online Order as "Customer" confirms that they are acting on behalf of the partnership and that they have authority to bind the partnership on whose behalf they are purchasing the Goods.
- 3.9 In an online purchase by a company or LLP, the person completing the Online Order as "Customer" confirms that they are an employee of the company or LLP and confirms that they have authority to bind the company or LLP.

4. **DELIVERY**

- 4.1 DPS shall deliver the Goods to the address set out in the Order on the date specified in the written acceptance of the Order issued by DPS.
- 4.2 Delivery of the Goods will be completed when DPS delivers the Goods to the address set out in the Order.
- 4.3 DPS shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and DPS reference numbers, the type and quantity of the Goods, special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- 4.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence.
- 4.5 If DPS fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. DPS shall have no liability for any failure or delay in delivery of the Goods to the extent that such failure or delay is caused by a Force Majeure Event or the Customer's failure to provide DPS with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.6 DPS may deliver the Goods by instalments, which may at DPS's option be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.7 DPS does not deliver to addresses outside the UK. The Customer may place an Order from outside the UK, but delivery must be to an address in the UK.

5. **TITLE AND RISK**

- 5.1 The risk in the Goods shall pass to the Customer on completion of delivery.

5.2 Title to the Goods shall not pass to the Customer until DPS has received payment in full (in cash or cleared funds) for:

5.2.1 the Goods; and

5.2.2 any other goods or services that DPS has supplied to the Customer in respect of which payment has become due.

5.3 Until title to the Goods has passed to the Customer, the Customer shall:

5.3.1 hold the Goods on a fiduciary basis as DPS's bailee;

5.3.2 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as DPS's property;

5.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

5.3.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;

5.3.5 notify DPS immediately if it becomes subject to any of the events listed in clause 12.2; and

5.3.6 give DPS such information relating to the Goods as DPS may require from time to time;

but the Customer may use the Goods in the ordinary course of its business.

5.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 12, or DPS reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy DPS may have, DPS may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

6. **CANCELLATION AND REFUND**

6.1 If, following delivery of the Goods, the Customer wishes to cancel the Order for any reason other than those set out in clause 9, it shall within 7 days of delivery:

6.1.1 contact DPS on 0870 730 0138 and confirm that it does not wish to keep the Goods;

6.1.2 send written notice to DPS at the email or postal address set out in the Delivery Note that it does not wish to keep the Goods; and

6.1.3 return such Goods in new and saleable condition together with all packaging to DPS at the Customer's cost.

- 6.2 If the Customer cancels an Order pursuant to clause 6.1, where the Customer has already paid for the Goods, DPS shall, provided the Goods have been returned in accordance with clause 6.1.3, refund the price of the Goods after the deduction of any delivery charges and a 20% re-stocking charge. If the Customer has not yet paid for the Goods, the Customer shall immediately upon cancellation of the Order, pay DPS any delivery charges and a 20% re-stocking charge.
- 6.3 If, following delivery of the Goods, the Customer wishes to exchange the Goods for alternative Goods, it may contact DPS within 7 days of delivery to arrange a revised Order. Any exchange shall be made at DPS's discretion and DPS shall not be obliged to offer any alternative Goods.
- 6.4 The Consumer Protection (Distance Selling) Regulations 2000 and the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 ("the Regulations") are excluded to the fullest extent permitted by law. However, if the Regulations do apply, the Customer shall have a 14 day period from the date of delivery of the Goods to cancel the Order pursuant to clause 6.1. Returning the Goods shall be at DPS's cost and the 20% re-stocking charge in clause 6.2 shall not apply.

7. **PRICE AND PAYMENT**

- 7.1 The price of the Goods will be the price set out in the Quote, or for Online Orders the price stated on the DPS Website from time to time.
- 7.2 DPS shall take reasonable care to ensure that the price shown in any Quote and on the DPS Website is correct at the time the information is given, but if DPS discovers an error in the price of Goods, it shall not be obliged to accept any Order based on that price and it shall give the Customer the option to resubmit the Order at the correct price or to cancel the Order.
- 7.3 DPS reserves the right to change the prices of Goods from time to time, but such changes will not affect any Order which has been accepted by DPS unless the change is due to:
- 7.3.1 any factor beyond DPS's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - 7.3.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered; or
 - 7.3.3 any delay caused by any instructions of the Customer or failure of the Customer to give DPS adequate or accurate information or instructions.
- 7.4 The prices of the Goods are expressed exclusive of the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.

- 7.5 The prices of the Goods are expressed exclusive of Value Added Tax (VAT). The Customer shall, on receipt of a valid VAT invoice from DPS, pay to DPS such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
- 7.6 If the Customer places an Online Order, payment for the price of the Goods shall be made in accordance with the DPS Website and DPS shall provide a VAT invoice upon delivery of the Goods.
- 7.7 If the Customer places an Order by telephone, email or post, unless otherwise agreed by DPS in writing, the Customer shall pay for the Goods in full before delivery.
- 7.8 If the Customer fails to make any payment due to DPS under the Contract by the due date for payment ("Due Date"), then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 7.9 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against DPS in order to justify withholding payment of any such amount in whole or in part. DPS may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by DPS to the Customer.

8. **GOODS**

- 8.1 The Goods are described in DPS's catalogues and brochures, and on the DPS Website and/or other marketing materials provided by DPS.
- 8.2 Any samples, drawings, descriptive matter, or advertising provided by DPS and any descriptions or illustrations contained in DPS's catalogues, brochures or on the DPS Website are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.
- 8.3 DPS reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.

9. **WARRANTY**

- 9.1 DPS warrants that on delivery, the Goods shall:
- 9.1.1 conform in all material respects with their description and any applicable specification;
 - 9.1.2 be free from material defects in design, material and workmanship; and
 - 9.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).

- 9.2 The Customer shall inspect the Goods upon delivery or as soon as reasonably practicable thereafter. If the Customer discovers that the Goods do not comply with the warranty set out in clause 9.1 it shall:
- 9.2.1 within a reasonable time of discovery, send written notice to DPS at the email or postal address set out in the Delivery Note that some or all of the Goods do not comply with that warranty;
 - 9.2.2 give DPS a reasonable opportunity to examine such Goods; and
 - 9.2.3 if asked to do so by DPS, return such Goods to DPS at DPS's cost,
- and DPS shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full, including any delivery charges.
- 9.3 To the extent that it is reasonably possible to do so, DPS will transfer the benefit of any manufacturer's warranty of the Goods to the Customer.
- 9.4 DPS shall not be liable for Goods' failure to comply with the warranty set out in clause 9.1 in any of the following events:
- 9.4.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 9.2.1;
 - 9.4.2 the defect arises because the Customer failed to follow DPS's or the manufacturer's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods;
 - 9.4.3 the Customer alters or repairs such Goods without the written consent of DPS;
 - 9.4.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - 9.4.5 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 9.5 Except as provided in this clause 9, DPS shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 9.1.
- 9.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 9.7 These Terms shall apply to any repaired or replacement Goods supplied by DPS.

10. **LIMITATION OF LIABILITY**

- 10.1 Nothing in these Terms limits or excludes DPS's liability for:
- 10.1.1 death or personal injury caused by our negligence;
 - 10.1.2 fraud or fraudulent misrepresentation;

- 10.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession);
- 10.1.4 any matter in respect of which it would be unlawful for DPS to exclude or restrict liability.
- 10.2 Subject to clause 10.1, DPS shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profits, sales, business, or revenue; loss or corruption of data, information or software; loss of business opportunity; loss of anticipated savings; loss of goodwill; or any indirect or consequential loss, arising under or in connection with the Contract.
- 10.3 Subject to clauses 10.1 and 10.2, DPS's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the price of the Goods and the cost of delivery.
- 10.4 Except as expressly stated in these Terms, DPS does not give any representation, warranties or undertakings in relation to the Goods. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, DPS will not be responsible for ensuring that the Goods are suitable for the Customer's purposes.

11. **FORCE MAJEURE**

- 11.1 DPS shall not be liable for any failure or delay in performing any of its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event.
- 11.2 A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.
- 11.3 If a Force Majeure Event occurs that affects the performance of DPS's obligations under the Contract DPS will notify the Customer as soon as reasonably possible and DPS's obligations under the Contract will be suspended and the time for performance of such obligations will be extended for the duration of the Force Majeure Event. In the event that a Force Majeure Event continues for more than 6 weeks, the Customer or DPS shall be entitled to terminate the Contract.

12. **CUSTOMER'S INSOLVENCY OR INCAPACITY**

12.1 If the Customer becomes subject to any of the events listed in clause 12.2, or DPS reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to DPS, DPS may cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and DPS without incurring any liability to the Customer, and all outstanding sums in respect of Goods delivered to the Customer shall become immediately due.

12.2 For the purposes of clause 12.1, the relevant events are:

12.2.1 the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or is deemed unable to pay its debts within the meaning of the Insolvency Act 1986; becomes bankrupt, insolvent, enters into liquidation (whether voluntary or compulsory), passes a resolution for its winding up; has an encumbrancer taking possession of any of its assets; or makes or proposes any other composition, scheme or arrangement with (or assignment for the benefit of) its creditors;

12.2.2 an order is made or a resolution is passed for the winding up of the Customer (unless it is for the purpose of amalgamation or reconstruction when solvent); an administration order is made or an administrator is appointed to manage the affairs, business and/or property of the Customer; a receiver and/or administrative receiver is appointed in respect of all or any of the Customer's assets;

12.2.3 any procedural step is taken in relation to or with a view to any of the above or the Customer takes or suffers any similar or analogous action to the above in any jurisdiction; or

12.2.4 the Customer ceases or threatens to cease to exist or to carry on trading.

12.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

13. **VARIATION**

13.1 DPS may revise these Terms from time to time and the Terms that apply to the Contract shall be the Terms in force at the date the Order is placed.

13.2 DPS shall provide the Customer with a copy of the current Terms together with any Quote. It is the Customer's responsibility to review the Terms on the DPS Website when placing any Online Order.

13.3 Except as set out in these Terms, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by DPS.

14. **CONTACT AND NOTICES**

14.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier, fax or e-mail to the address, fax number or email address referred to in clause 14.2 or 14.3, as the case may be.

14.2 The contact details for DPS are as follows:

Address: DPS Business Supplies
Apex Business Centre,
Unit 15, First Floor,
Boscombe Road,
Dunstable,
Bedfordshire
LU5 4SB

Email: sales@dps-business-supplies.co.uk

Telephone: 0870 7300138

Fax: 0870 7300139

14.3 The contact details for the Customer shall be as set out in the Order.

14.4 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 14.2 or 14.3; if sent by pre-paid first class post or recorded delivery, at 9.00am on the second business day after posting; if delivered personally or by commercial courier, at the time of delivery; or, if sent by fax or e-mail, at the time of transmission.

15. **ASSIGNMENT**

15.1 DPS may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

15.2 The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of DPS.

16. **SEVERANCE**

16.1 If any provision of these Terms or any other term of the Contract is found to be illegal, invalid or unenforceable under any applicable law, such term shall, insofar as it is severable from the remaining terms (or capable of modification), be deemed omitted from the Contract (or modified as appropriate) and shall in no way affect the legality, validity or unenforceability of the remaining terms which shall remain in full force and effect.

17. **WAIVER**

17.1 The failure of either party to enforce or to exercise any term or right under the Contract shall not be a waiver of such term or right and shall not affect such party's right to later enforce or exercise it.

18. **RIGHTS OF THIRD PARTIES**

18.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement except to the extent that any provision of this Agreement expressly provides otherwise.

19. **APPLICABLE LAW AND JURISDICTION**

19.1 This Agreement shall be construed in accordance with the laws of England and Wales and the parties submit to the exclusive jurisdiction of the English Courts.