



ND Packaging – General Terms and Conditions

1. **Pricing.** Badger Solutions LLC d/b/a ND Packaging (“ND,” “we,” “us,” “our”) seeks to provide you as our customer (“you,” “Customer”) the most-accurate pricing for every quote as quickly as possible. Each quote that ND provides is valid for a period of 30 days from the date of the quote. ND reserves the right to correct clerical errors. All tooling and print plates will be stored by ND for up to 18 months between orders after which time they may be discarded.

2. **Payment.** Customer must pay all invoiced charges net 30 days from date of invoice unless otherwise reflected on the ND invoice or agreed in writing between the parties. Amounts not paid in full within 30 days of the date of invoice will be subject to interest at 1.5% per month on the unpaid balance until paid in full. After ND has invoiced Customer based upon an agreed quote, ND will not agree to any further discounts on tooling, plates, labor, freight, or taxes.

3. **Freight.** Cost of freight is included as quoted in the per piece price. If Customer’s specified delivery location changes, ND reserves the right to update all pricing. Unless otherwise specified in the quote or mutually-agreed in writing, all packaging will be shipped FOB to Customer’s specified destination.

4. **Taxes.** Unless otherwise noted, ND’s price quoted does not include sales, use, or any other form of tax imposed on ND at time of sale and/or shipment of the goods sold under applicable law.

5. **Cancellation or Default.** This order may not be cancelled in whole or in part by you except with ND’s written consent. If at any time, in ND’s opinion, your credit is impaired, or if you shall fail to pay to ND any amount when due, under this Agreement or any other agreement, or if at any time you shall indicate an intention to refuse to perform or on an inability to perform your obligation hereunder, ND may at its option terminate this Agreement as regards any further shipments. After such time, all amounts previously unpaid shall become immediately due and payable. In the event of such termination, you shall remain liable to ND for any and all loss or damage sustained due to your default.

6. **Force Majeure.** ND will not be liable for any loss, damage, delays, changes in shipment schedules or failure to deliver caused by any event beyond its reasonable control, including, without limitation, accident, fire, actual or threatened strike or riot, explosion, all effects of a pandemic (including supply shortages and labor shortages), mechanical breakdown (including technological or information systems), plant shutdown for any cause, unavailability of or interference with necessary transportation, any raw material or power shortage, compliance with any law, regulation or order, acts of God or public enemy, prior orders from others, or limitations on ND’s or its suppliers’ products or marketing activities or any other cause or contingency beyond ND’s control.

7. **Intellectual Property.** You are either the owner or the licensee of all materials you provide to ND including, but not limited to, logos, graphics, color schemes, packaging designs, slogans, printed text, or any other content that will become a part of or influence the design for the completed packaging. You hereby agree to defend, indemnify, and hold harmless ND Packaging, together with its parents, affiliates, and subsidiaries from any all claims for violations of the intellectual property rights of any third party.

8. **Limitation on Warranty and Remedies.** ND warrants that the goods sold will substantially conform to the requirements submitted in your order. Customer will indemnify, defend, and hold ND harmless from and against any loss arising out of or related to any allegation or claim made by a third party, directly or indirectly, alleging: (a) personal injury (including death) or property damage arising out of: (i) the negligent or intentional acts or omissions of Customer or any Customer personnel; or (ii) infringement of any intellectual property right of a third party as a result of any intellectual property provided by Customer to ND; provided Customer will have no obligation to ND under this section for any third party claim arising solely out of ND’s negligence. ND’S WARRANTY IS EXCLUSIVE TO YOU AND ND DOES NOT INTEND TO PROTECT ANY OTHER THIRD PARTIES INCLUDING END USERS OR INTENDED



BENEFICIARIES. ND MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN THE EVENT THE GOODS ARE NOT IN COMPLIANCE WITH SELLER'S WARRANTY HEREUNDER, YOUR SOLE REMEDY WILL BE A CREDIT FOR THE COST OF SUCH GOODS OR, AT ND'S SOLE OPTION, REPLACEMENT OF SUCH GOODS. ND WILL NEVER BE LIABLE TO YOU OR A THIRD PARTY FOR ANY OTHER FORM OF DAMAGES OR LIABILITY INCLUDING DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR OTHER FORMS OF DAMAGES. NO WAIVER, ALTERATION, ADDITION OR MODIFICATION OF THE FOREGOING CONDITIONS WILL BE VALID UNLESS MADE IN WRITING AND SIGNED BY A SALES MANAGER OR HIGHER WITHIN ND.

9. **Limitation of Actions.** Any claim on the warranty above must be made in writing within 10 days after receipt of goods for quantity, or within 120 days after receipt of goods if for quality, loss of or damage to goods, and the goods must be held available at your place of business for ND's inspection. Any action for breach of this Agreement, other than for non-payment hereunder, must be commenced within one year of the date of shipment, or due date of delivery in the event of non-delivery, of the particular shipment upon which such claim is based. Your remedies set forth in these terms are exclusive and the total liability to ND for damages with respect to the products purchased under this Agreement, or anything done in connection therewith, will be limited to the purchase price of the particular shipment with respect to which such damages are claimed.

10. **Returns and Transit Damage Claims.** No goods may be returned to ND without ND's written consent. Goods returned without ND's prior written authorization will be refused. You must note any shortage or damage on the delivery within 1 calendar day of receipt. Any concealed damage must be reported within 15 calendar days, and the entire shipment must be retained at your place of business until after ND accepts the damage claim submitted.

11. **Interpretation.** If a tribunal of competent jurisdiction holds any provision of this Agreement to be invalid, the remaining provisions will continue to be valid and enforceable so long as the essential terms and conditions of this Agreement reflect the original intent of the Parties. The article and section headings in this Agreement are for convenience only and do not constitute a part of this Agreement.

12. **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Wisconsin.

13. **Entire Agreement.** The quote and these terms and conditions will constitute the entire agreement (the "Agreement") of ND Packaging ("ND") and you with respect to the subject matter hereof. These terms and conditions are controlling and shall supersede any prior or contemporaneous agreements, understandings or representations, oral or written, relating to the subject matter hereof. These terms and conditions shall govern in the event of any conflict between these terms and conditions and any provision contained in any subsequent quote or otherwise, the terms of which, whether conflicting, supplemental or otherwise, are hereby expressly rejected.