



## **ND Paper /ND Packaging – General Terms and Conditions**

**1. Pricing.** This General Terms and Conditions (this “Agreement”) applies to the customer (“Customer”, “you”) and the ND Paper Inc and its affiliates (“ND,” “we,” “us,” “our”) from whom the Customer purchases goods and services. We seek to provide you as our 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. This Agreement’s terms will become effective when the order quoted is accepted by Customer.

**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 a rate of 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. All tooling and print plates will be stored by ND for up to 18 months between orders after which time they may be discarded. Customer expressly agrees to make payment in full to ND for the purchases in accordance with ND’s invoice(s). Should Customer default on any such payment Customer expressly agrees to pay a late charge on any amounts in default at the maximum rate permitted by law, and, at ND’s option, all amounts owed ND by Customer will become immediately due and payable. Customer further agrees to pay reasonable attorney’s fees and all other costs and expenses incurred by ND in the collection of any obligation of Customer pursuant hereto. ND will issue and maintain customer credits where appropriate. You will have up to 180 days to use that credit for any order. If you fail to use the credit, the credit will expire and revert back to ND.

**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 product will be shipped EXW (Incoterms 2020) to Customer’s specified US-based 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 fail to pay to ND any amount when due, under this Agreement or any other agreement, or if at any time you 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 will become immediately due and payable. In the event of such termination, you will 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, changes in law or regulation, imposition of new tariffs, duties, or trade restrictions, or other events that materially and adversely affect the cost or feasibility of performance, 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 product. You hereby agree to defend, indemnify, and hold ND harmless, together with its parents 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. ND'S WARRANTY IS EXCLUSIVE TO YOU AND ND DOES NOT INTEND TO PROTECT ANY OTHER THIRD PARTIES INCLUDING YOUR 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 VICE PRESIDENT OF ND.

**9. Indemnification.** 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.

**10. 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 concealed damage or quality 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. No goods sold to Customer may be returned to ND without ND's written consent. The Customer shall inspect goods upon receipt. Visible damage, shortage, or non-conformity must be reported to ND in writing within five (5) days of discovery, and no later than sixty (60) days from delivery. Concealed damage must likewise be reported within five (5) days of discovery, with details, documentation, and photos if available, and in any case no later than sixty (60) days from delivery. Failure to give timely notice waives all claims, and ND bears no liability.

**11. Security Agreement.** To secure payment of all sums due ND, whether incurred hereunder or in the past, and those sums to be incurred in the future by Customer, ND retains a purchase money security interest in the goods sold hereunder, to the extent those goods have not been processed and re-sold by the Customer. As further security, Customer also grants a security interest to ND in Customer's equipment, vehicles and accounts receivable, whether currently owned by the Customer or hereafter acquired by the Customer. The agreement between ND and Customer is intended to be and is deemed a secured transaction within the meaning of Article 9 of the Uniform Commercial Code. Customer authorizes ND to execute and file on Customer's behalf all documents ND deems necessary to perfect such security interest, and title to the goods sold hereunder shall remain in ND until full payment is received. ND is relying upon Customer's representation of solvency and if ND at any time reasonably believes that Customer is insolvent or that Customer's credit is impaired, Customer shall be in material breach hereof and ND may, without liability to Customer, withhold performance hereunder, change the payment terms and/or repossess Goods heretofore delivered, or otherwise foreclose upon the security interest granted herein. ND may charge Customer finance, service, or late charges in an amount no greater than allowed by law, and if Customer fails to make payment when due, Customer shall be liable to ND for all costs of collection including attorney's fees.

**12. 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.

13. **Governing Law.** This Agreement will be governed by and construed in accordance with the internal laws of the State of Delaware.

14. **Entire Agreement.** The quote and these terms and conditions will constitute the entire agreement (the "Agreement") of ND and you as our Customer with respect to the subject matter hereof. These terms and conditions are controlling and will supersede any prior or contemporaneous agreements, understandings or representations, oral or written, relating to the subject matter hereof unless otherwise expressly so agreed in writing. These terms and conditions will 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.