

BALL BEVERAGE PACKAGING EUROPE LIMITED

Standard Terms & Conditions of Purchase

- 1.1 The following terms shall have the meaning ascribed to them:
- "Conditions" means the standard terms and conditions of purchase set out in this document and (unless the context requires otherwise) includes any special terms and conditions agreed in writing between the Seller and the Buyer
- "Contract" means the contract for the sale and purchase of Goods and/or the supply of Services made between Ball and the Seller in accordance with these terms.
- "Delivery" shall mean delivery of the Goods and/or Services to the point specified in the relevant Purchase Order.
- "Goods" mean any goods, equipment, plant or other materials procured from the Seller by Ball and, where relevant, shall include the deliverables of any Services.
- "Buyer" or "Ball" means the Ball Beverage Packaging Europe Group Company named on the front of the Purchase Order. "Ball Beverage Packaging Europe Group Company" means Ball Corporation or any company being a direct or indirect subsidiary of Ball Corporation.
- "Purchase Order" means a purchase order issued by the Buyer requesting the supply of Goods and/or Services.
- "Seller" or "Supplier" means the person, firm or company with whom the Buyer contracts for the supply of Goods and/or Services.
- "Services" means any services procured from the Seller by Ball.
- "Specification" shall mean the conditions that the Goods or Services must fully comply with.
- 2.1 The Seller shall sell, and the Buyer shall buy the Goods and/or Services in accordance with the terms of the Purchase Order, subject to these Conditions which shall govern the Contract to the exclusion of all and any other terms, conditions or contracts. Written acceptance of a Purchase Order, or any other conduct consistent with acceptance of a Purchase Order, such as the commencement of Services or supply of any Goods, shall constitute acceptance by the Seller of these Conditions. These Conditions shall apply to the exclusion of any terms and conditions of contract imposed or sought to be imposed by the Seller at any time and any conditions attached to any quotation or otherwise. The signing by the Buyer of the Seller's documentation shall not imply any modification of these Conditions. The Buyer may cancel any Purchase Order if it is not accepted in writing by the Seller within 5 days of the date of the Purchase Order.
- 3.1 The price for the Goods or Services shall be agreed between the Buyer and Seller as shown in the Purchase Order and will be deemed to include all and any charges for packaging, duties, expenses, packing, carriage, insurance and Delivery.
- 3.2 The price is exclusive of any applicable value added tax but inclusive of all and any other taxes duties or governmental fees. For the avoidance of doubt, save in respect of VAT or any equivalent sales tax, the Seller will be responsible for all and any taxes, duties or governmental fees arising out of the Supply of Goods or Services and will indemnify Ball against any such taxes, duties or governmental fees.
- 3.3 The Buyer shall be entitled to set off any sum owed to the Buyer by the Seller against any sum due to the Seller.
- 3.4 Where Goods are to be delivered, or Services provided, in instalments, the contract shall be treated as a single Contract and not severable.
- 3.5 Delivery will be made to the destination and at the time specified in the Purchase Order (if no time is specified Delivery will take place during Ball's normal business hours). Time of Delivery will be of the essence of the Contract.
- 3.6 Goods must be appropriately packed to ensure their protection before, during and after Delivery.
- 3.7 An accurate and complete note of Delivery must be included with each Delivery made hereunder.
- 3.8 Unless paid by credit card, The Buyer will process payment on the 15th and last day of the month, three (3) months following the date of the invoice. Ball may pay either through check, electronic funds transfer, by credit card, or by any other reasonable means, at Ball's election. Supplier hereby agrees to provide reasonable assistance to Ball to facilitate Ball's payment by credit card or by any other means. Supplier hereby further commits to provide all necessary documentation, including but not limited to receipts and VAT invoices, required by Ball.
- 3.9 Any Services will be performed to the highest standards of excellence.
- 3.10 The Seller agrees to perform all and any acts and execute all and any documents required by Ball to effect Delivery in accordance with any relevant Purchase Order.
- 4.1 The Buyer shall have the right and the Seller will procure that the Buyer has the right to inspect and test the Goods or Services at any time prior to Delivery, at any premises, locations, or vehicles of the Seller or any third party. The Seller shall provide such facilities as may be reasonably required by the Buyer for inspection and testing. Such testing or inspection shall not constitute acceptance of Goods or Services.
- 4.2 If such inspection and testing shows that the Goods or Services do not, or will not, comply with the Contract or any relevant Specification, the Seller will immediately take such steps as are required by the Buyer to ensure compliance.
- 4.3 The Buyer shall have the right to reject any delivered Goods (and return the same to the Seller at the Seller's risk and expense) or Services which do not fully comply with the Contract and shall not be deemed to have accepted the same until the later of (i) the expiry of a reasonable period after Delivery to allow for inspection and (ii) the expiry of a reasonable time after any latent defect has become apparent.
- 4.4 In addition to any other rights or remedies available to the Buyer, upon rejection and at the Buyer's sole discretion:
- 4.4.1 the Seller shall promptly make good at its cost by repair or replacement, defects or any shortfall in the Goods or Services;
- 4.4.2 the Seller shall be responsible for the costs of any dismantling, removal and reinstallation necessary to correct any defect and making good any damage or loss caused by such works; and
- 4.4.3 the Buyer may return, at the Seller's cost, any Goods delivered in excess of or less than the quantity ordered.
- 4.4 Nothing shall oblige the Buyer to accept, or pay for: Goods or Services supplied not in accordance with a valid Purchase Order (including Goods in a quantity in excess of, or less than, the quantity stated in any Purchase Order or Goods or Services not in accordance with any Specification).
- 5.1 Property in, and title, to any Goods and the deliverables of any Services shall pass to the Buyer on the earlier of: Delivery or payment in respect of the relevant Goods and/or Services.
- 5.2 Risk of damage to or loss to the Goods shall pass upon delivery of the Goods to the Buyer at the location stated in the relevant Purchase Order.
- 6.1 The Seller warrants, undertakes and agrees that all Goods and Services will:
- 6.1.1 conform in all respects with all relevant Specifications and samples;
- 6.1.2 be of satisfactory quality and fit for all purposes held out by the Seller or made known to the Seller by the Buyer;
- 6.1.3 be (in addition to any statutory provisions or implied terms) free from defects in design, materials and workmanship for a period of 12 months from the later of (i) the date of their initial use; or (ii) 12 months from the Delivery; and
- 6.1.4 comply with all statutory requirements and regulations relating to the design, manufacture, distribution of the Goods and performance of the Services.

- 6.2 The Seller will indemnify the Buyer against all liabilities, losses, costs, damages, expenses (including legal expenses and loss of management time) and claims made against or incurred by the Buyer as a result of or in connection with:
- 6.2.1 any breach of any Contract;
 - 6.2.2 any claim that the Goods or Services or any aspect thereof infringe any rights of a third party;
 - 6.2.3 any breach of any statute or regulation; and
 - 6.2.4 any dishonest, negligent, or malicious act or omission.
- 7.1 Without prejudice to any other rights or remedies to which it may be entitled the Buyer may terminate the Contract with immediate effect and without liability by written notice to the Seller if: the Seller becomes insolvent, has an administrator or receiver or manager appointed in relation to its affairs or assets, makes a voluntary arrangement with its creditors, or goes into liquidation (other than for the purposes of amalgamation or reconstruction) or ceases or threatens to cease business; or if the Seller is in breach of the Contract and does not, or cannot, remedy that breach within 14 days of the occurrence of the breach.
- 8.1 Any Specifications, plans, drawings, process information, patterns, designs or other written materials supplied by the Buyer to the Seller and all intellectual property therein will remain, or become on Delivery, the property of the Buyer, and any information derived therefrom shall be kept secret and shall not without the prior written consent of the Buyer be published or disclosed to any third party or used by the Seller except for the purposes of the Contract. Any specifications, plans, drawings, process information, patterns, or designs supplied by the Buyer must be returned to the Buyer on completion of the Contract or at the request of the Buyer from time to time. The Seller shall do any such acts or procure the execution of any documentation necessary to transfer any such intellectual property rights in law to Ball.
- 9.1 If the Buyer supplies materials to the Seller, such material shall remain the property of the Buyer and will be insured by the Seller against any loss and damage. The Seller shall hold such materials as bailee and keep all such materials in good condition, only use them to perform its obligations under the Contract and must immediately return them to the Buyer on completion of the Contract or at the request of the Buyer from time to time.
- 10.1 The Seller shall not, without the prior written consent of the Buyer, subcontract any of its obligations or assign any of its rights.
- 10.2 If any provision of these Conditions or any Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions and the remainder of the provisions in question shall not be affected.
- 10.3 The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right.
- 10.4 These Conditions and any Contract shall be interpreted in accordance with the laws of England.
- 10.5 The parties hereby submit to the exclusive jurisdiction of the English courts. If the Seller is the defendant in the proceedings and has no assets in the United Kingdom it will submit to the non-exclusive jurisdiction of the courts of the country of its incorporation.
- 10.6 A Contract can only be amended by a written document, signed by duly authorised representatives of Ball and the Seller.
- 10.7 The Seller hereby warrants, represents and agrees that it will comply at all times and in all respects with all applicable laws, statutes, regulations, and codes relating to anti-bribery, anti-corruption, corporate responsibility, anti-tax evasion, employee rights, the environment, and health and safety ("Relevant Requirements").
- 10.8 Without limiting Seller's obligations under clause 10.7, Seller hereby warrants, represents and agrees that it will:
- a) comply at all times and in all respects with the Buyer's Anti-Bribery Policy and Anti-fraud Policy, Buyer's Policy on anti-facilitation of tax evasion and all relevant employment, environmental and anti-corruption legislation, including without limitation the Criminal Finances Act (UK), Foreign Corrupt Practices Act (US) and Bribery Act (UK); ("Relevant Policies");
 - b) have and will maintain in place throughout the term of this Agreement its own policies and procedures, including, but not limited to, adequate procedures to ensure compliance with the Relevant Requirements, the Relevant Policies, and will audit, update and enforce them where appropriate;
 - c) have and shall maintain in place throughout the term of this Agreement such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Seller and entities within its own supply chain). Seller shall promptly report to the Buyer any request or demand from a third party to facilitate the evasion of tax within the meaning the relevant act.
 - d) immediately notify Buyer (in writing) if a foreign public official becomes an officer or employee of Seller or acquires a direct or indirect interest in Seller (and Seller warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this agreement);
 - e) Continually seek to improve its processes, policies and behaviours;
 - if requested by Buyer, participate in or undergo any due diligence activities to assist Buyer in confirming Seller's compliance with the Relevant Requirements and Relevant Policies; and
 - f) Upon request, certify to Buyer in writing signed by an officer of Seller, compliance with this clause by Seller and all persons associated with it. Seller shall provide such supporting evidence of compliance as Buyer may reasonably request.
- 11.1 Seller hereby agrees, undertakes and represents that where the Goods supplied are equipment, machines, machinery or parts thereof ("Equipment"), that Equipment shall meet all applicable requirements, legislation, rules and regulations ("Regulations") including (but not limited to): those in force in the territory of origin; those in force in the destination territory; and to the extent that the same applies to the relevant type of Equipment, the following EU directives (as amended), irrespective of which country the Equipment is to be supplied to: 2006/42/EC Machinery Directive; 2014/35/EU Low Voltage Equipment; 2014/30/EU Electromagnetic Compatibility; 2014/34/EU Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres (ATEX); 2014/68/EU Pressure Equipment Directive. The Seller is responsible for determining which directive applies to their Goods.
- 11.2 Where the Machinery directive applies in accordance with term 11.1 above, the Seller will supply: a declaration of conformance and CE Marking prepared in accordance with Annex II-A of the "Machinery Directive 2006/42/EC"; or, should the Equipment be considered a "partly completed machine", the declaration of conformance must be prepared in accordance with Annex II-B of the "Machinery Directive 2006/42/EC" The Equipment must be supplied with instructions for partly completed machinery in accordance with Annex VI. The Seller must notify Ball of such a designation at the time for order placement. The Seller must, upon acceptance of these requirements, specify whether they will be providing a declaration of conformance under AnnexII-A or Annex II-B.

Supplier Signature:	
For and or behalf of: (Supplier Company name)	
Date:	

