



Terms and Conditions of Purchase

AMERICAS

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1. Entire Agreement

- 1.1. The Terms & Conditions set forth below together with those appearing on the face of this Order and any attachments hereto constitute the complete and exclusive agreement between **LANGEN PACKAGING INC.** (hereafter referred to as "**Langen**") and the party identified in the "To" box on the face of this order (hereafter referred to as "**Seller**").
- 1.2. No modification of this Order shall be binding on either party unless in writing and signed by an authorised representative of each party.

2. Prices and Invoices

- 2.1. Price. Seller shall sell to Langen Goods and / or Services shown on the face of this Order at the prices specified. Except as otherwise provided in this Order, such prices are fixed and exclusive of applicable freight charges and duties.
- 2.2. Taxes. Where applicable, Seller shall invoice Langen for taxes applicable to this Order, in a form as to allow Langen to recover these taxes as appropriate. Taxes, where applicable, shall be shown separately on all invoices. Langen shall include such taxes with the payment or provide Seller with the appropriate documentation to support exemption from such tax.
- 2.3. Payment. Unless otherwise specifically agreed in writing by Seller, payment for Goods and / or Services by Langen shall be 30 days after the latter of receipt of (i) an appropriate invoice from Seller; or (ii) of the corresponding Goods and / or Services. Langen may deduct from Seller's invoices any monies owed to Langen by Seller.
- 2.4. Not Acceptance. Payment by Langen will not constitute acceptance of Goods and / or Services, nor impair Langen's right to inspect Goods and / or Services, or invoke any of its remedies.

3. Shipment and Delivery

- 3.1. Prospective Failure. Seller shall give Langen notice of any prospective failure to ship Goods or provide Services on the delivery date specified by Langen (the Delivery Date)
- 3.2. Portion of Goods Available. If only a portion of Goods is available for shipment to meet the Delivery Date, Seller shall ship the available Goods unless directed by Langen to reschedule shipment. If Seller ships Goods by a method other than as specified in this Order, Seller shall pay any resultant increase in the cost of freight incurred over that which would have been incurred had Seller complied with Langen's shipping instructions.
- 3.3. Portion of Services performed. If only a portion of the Services can be performed on the Delivery Date, Seller shall perform such Services unless directed by Langen to reschedule.
- 3.4. Untimely Shipment. If, due to Seller's failure to ship Goods in line with the Delivery Date, the specified method of transportation would not permit Seller to meet the Delivery Date, the Goods affected shall be shipped by air transportation or other expedient means acceptable to Langen. Seller shall pay for any resulting increase in the cost of freight incurred over that which would have been incurred had Seller shipped goods in a timely fashion by the method of transportation specified by Langen.
- 3.5. Early Shipment. If Seller makes any shipment more than three (3) workdays prior to the Delivery Date, Langen may either return Goods or delay processing the corresponding invoice until the Delivery Date.
- 3.6. Cost and Expenses. Seller shall be responsible for all costs and expenses, including transportation charges associated with the return of Non-Complying Goods (as defined in Section 6.2), over shipments, and early shipments by Langen to the Seller, and for the costs and expenses associated with the shipment to Langen by Seller of all replacement and reworked goods.
- 3.7. Shipment Terms. Unless otherwise specified on this Order, shipments of Goods shall be CIF Langen's plant or such other destination as specified on this Order. Title and risk of loss or damage shall remain with Seller until completion of delivery of Goods. Seller shall be responsible for payment of all shipping and transport expenses and, to the extent such expenses are in line with the terms of this Order, Langen shall, upon presentation of an appropriate invoice, reimburse Seller for such expenses. Seller will bear all expenses relating to packing, loading and delivery of Goods to the designated carrier, and loading of Goods onto carrier's conveyance.
- 3.8. Protection of Goods. Seller shall preserve, package, handle and pack Goods so as to protect Goods from loss or damage, in conformance with good commercial practice, Langen Specifications, Government regulations, and other applicable requirements. Seller shall be responsible for any loss or damage due to its failure to properly preserve, package, handle or pack Goods. Langen shall not be required to assert any claims for such loss or damage against the carrier involved.
- 3.9. Packing List. Each delivery of Goods to Langen shall include a packing list which contains at least; (i) the Order number; (ii) the Langen part number; (iii) the quantity shipped, and, (iv) the date of shipment. The information on the packing list must agree with the information on the commercial invoice.

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4. Changes

4.1. Termination.

- 4.1.1. Without Cause. Langen may terminate this order in whole or in part at any time for any cause by serving upon Seller a written notice, and will reimburse the Seller for reasonable and necessary expenses incurred directly incident to this order to the date of cancellation.
- 4.1.2. With Cause. Time is of the essence of this order. Langen may terminate this order in whole or in part at any time by serving upon Seller a written notice in any of the following events: a) if Seller fails to make delivery in accordance with the agreed delivery date or schedule (except as provided in 4.2, below); or b) if Seller otherwise fails to observe or comply with any of the other instructions, terms, conditions, or warranties applicable to this order, or c) if Seller fails to make progress so as to endanger performance of this order, or d) in the event of any act of insolvency or bankruptcy on the Seller's part including the appointment of an administrator or trustee or receiver in respect of all or any part of its assets.

- 4.2. Delays. Seller shall not be liable for damages occasioned by a delay in performance or delivery due to causes beyond the reasonable control and without the fault or negligence of the Seller, including but not limited to labour strikes and force majeure, provided the Seller promptly notifies Langen in writing when such delay is apparent. However, if the Seller for any reason not provided for above fails to proceed with the performance of this Order or make deliveries within the time specified in this Order, or if Langen shall have reasonable doubt as to Seller's ability to perform its obligations, Langen in addition to its remedies at law may at its option approve a revised delivery schedule or terminate this Order or such part or parts hereof as to which there has been delay or doubt, without liability to Langen.
- 4.3. Change of Designs or Specifications. Langen may, effective upon notice to Seller, change Langen's designs or specifications at any time prior to shipment of corresponding Goods or receipt of Services. If any such change directly affects the price or delivery schedules of Goods or Services, an equitable adjustment shall be made provided that the Seller makes a written claim for such adjustment within fourteen days of receiving notice of such change. If the parties are unable to agree upon the amount of the adjustment, Langen may, without any liability to Seller, terminate this Order as to all Goods and / or Services affected.
- 4.4. No Design Changes. Seller shall not, without the prior written consent of Langen, make any design changes affecting Goods.
- 4.5. Forecasts. Any forecasts provided by Langen are an accommodation to Seller, and shall not constitute a commitment of any type by Langen.

5. Quality and Warranty

- 5.1. Conformance. Seller warrants that all Goods and / or Services shall: (i) conform strictly to the design criteria, specifications, descriptions, drawings, samples and other requirements referred to in this order or provided by Seller; and (ii) be free from defects in design, material and workmanship; and (iii) be suitable and fit for the use Langen intends to put them.
- 5.2. Warranty. This warranty shall be in addition to and not in substitution for any condition or warranty implied by law or any other provision or indemnity contained in this Order.
- 5.3. Infringement, Not Reconditioned, Performance. Seller warrants that: (i) Goods and / or Services do not infringe any patent, trademark, copyright or other intellectual property right of a third party; (ii) Goods are new and do not contain any used or reconditioned parts or materials; and (iii) all Services will be performed in a professional manner consistent with the prevailing standards of care and skill.
- 5.4. Survival of Warranties. All warranties specified above shall: (i) survive any inspection, delivery, acceptance or payment by Langen; and (ii) be in effect for the longer of: (i) Seller's normal warranty period or; (ii) one year from the Goods and / or Services being put into use (not to exceed 18 months from the date of delivery).

6. Inspection and Non-Complying Goods and / or Services

- 6.1. Inspection. The Goods or Services shall be subject to (i) inspection at Langen's discretion by or on behalf of Langen at any reasonable time during manufacture and/or before despatch, and (ii) such tests as are called for in this Order. Such inspection and testing by or on behalf of Langen shall not relieve Seller of any of its responsibilities or liabilities under the terms of this Order.
- 6.2. Non-Compliance. If any Goods or Services are defective or otherwise not in conformity with the requirements of this Order (the Non-Complying Goods), Langen may: (i) return the Non-Complying Goods for repair, replacement or reworking at the Seller's expense; (ii) repair the Non-Complying Goods and recover Langen's reasonable expenses of repair.
- 6.3. Time for Compliance. Seller shall, if Langen selects the alternative identified in 6.2(i), return the repaired, replaced or reworked Non-Compliance Goods no later than five (5) working days after receipt.
- 6.4. Failure to Provide Complying Goods. If Seller fails to return repaired, replaced or reworked Goods to Langen within 5 working days of receipt of Non-Complying Goods, Langen may reject the Goods with a full refund of all costs paid. If Langen rejects the Goods, Langen may procure, upon such terms and in such a manner as Langen deems appropriate, similar Goods in substitution for the Non-Complying Goods. Seller shall reimburse Langen upon demand for all additional costs incurred by Langen in purchasing any such substitute Goods.
- 6.5. Failure to Re-perform Services. If Seller fails to re-perform the Services within 5 working days after notice from Langen, Langen may procure, upon such terms and in such a manner as Langen deems appropriate, Services in substitution for the Non-Complying Services. Seller shall reimburse Langen upon demand for all additional costs incurred by Langen in purchasing any such substitute services.

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7. Licence
 - 7.1. Licence Grant. If Goods include software, firmware or documentation, Seller grants to Langen a non-exclusive, royalty free, world-wide licence to use, reproduce, display and distribute such goods for internal use and sub-licence such Goods directly or as integrated into Langen products to third parties. Such licence will also include the right of Langen to sub-licence third parties to use and reproduce the Goods for Langen's internal use, and for the internal use of third parties in conjunction with a Langen product.
8. Intellectual Property and Confidential Information
 - 8.1. Indemnification. Seller agrees to defend, indemnify, and hold harmless Langen and its affiliates, subsidiaries, assigns, subcontractors and customers from and against all claims, losses, demands, fees, damages, liabilities, costs, expenses, obligations, causes of action, suits, or injuries of any kind or nature, arising from any actual or claimed infringement of patents, trademarks, service marks, trade secrets, copyrights, or any other intellectual property rights of a third party, with respect to Goods and Services, except to the extent that the infringement arises solely and directly out of compliance with Langen's written specifications.
 - 8.2. Infringing Goods or Services. Without limiting the generality of 8.1 above, if the use by Langen or its affiliates, subsidiaries, assigns, subcontractors, or customers of any Goods, Seller shall at its expense use its best efforts to procure the right for Langen to continue using or receiving the infringing Goods. If Seller is unable to do so, Seller shall at its expense: (i) replace the Infringing Goods with a non-infringing Goods without loss of functionality; (ii) modify the Infringing Goods to be non-infringing; or (iii) if unable to replace or modify the infringing Goods, refund in full all costs paid by Langen for the infringing Goods and pay all reasonable costs incurred by Langen in replacement.
 - 8.3. Confidential Information. Seller shall not use or disclose any confidential information of Langen, which is obtained from Langen or otherwise prepared or discovered. This includes without limitation, all information designated by Langen as confidential, all plans, drawings, designs, etc. supplied to Seller, all information or data concerning Langen's Goods (including the discovery, invention, research, improvement, development, manufacture or sale thereof) or general business operations (including costs, forecasts, profits, pricing methods, and processes) and information obtained through access to any database or computer systems. No license or other rights are granted by Langen or implied with respect to any patent, copyright or other intellectual property rights except to the extent specifically required to enable Seller to perform this Order.
9. Environmental Requirements
 - 9.1. Shipment. All Goods will be shipped in conformance with government and freight regulations applicable to chemicals and hazardous materials, including regulations regarding fumigation and aeration where applicable. Langen will not be liable for any loss or damage caused by a release of chemicals or other hazardous materials into the environment prior to Langen's actual receipt of the Goods. All packaging materials, including pallets shall be free of pests and comply with regulations regarding Solid Wood Packing Materials where applicable.
 - 9.2. Information. Seller will provide Langen, upon request, with environmentally-related information regarding all materials included in the Goods and packaging.
 - 9.3. Take Back. Seller will accept back, free of charge, any material included in the Goods or their packaging, returned freight prepaid by Langen, from any country that legally requires Goods take back from the user at the end of the Goods' life.
10. Default
 - 10.1. Breach by Seller. If Seller breaches any provision of this Order, Langen may, terminate the whole or any part of this Order, unless Seller cures the breach within ten (10) working days after receipt of Langen's notice of breach. Breach shall include: (i) any proceeding whether voluntary or involuntary, in bankruptcy or insolvency by or against Seller; (ii) the appointment, with or without Seller's consent, of a receiver or an assignee for the benefit of creditors; (iii) failure to provide reasonable assurances of performance, or (iv) other failure to comply with this Order.
 - 10.2. Termination. In the event that Langen terminates this Order in whole or in part as provided in 10.1 above, Langen may procure, upon such terms and in such manner as Langen deems appropriate, Goods or Services similar to the Goods or Services to be provided under the terminated Order. Seller shall reimburse Langen upon demand for all additional costs incurred.
11. Import Requirements.
 - 11.1. Certification. Upon Langen's request, Seller shall provide Langen with appropriate certification stating the Country of Origin for Goods, sufficient to satisfy the requirements of: (i) the customs authorities of the country of receipt, and (ii) any applicable export licensing regulations.
 - 11.2. Required Marking. Seller shall ensure that all goods themselves are marked (or the Goods container is marked) with the country of origin. Seller shall ensure compliance in marking the goods with the requirements of the customs authorities of the country of receipt.
 - 11.3. Commercial Invoice. Seller shall issue a commercial invoice containing, but not limited to the following information: Invoice number; invoice date; name and address of the shipper; name and address of the Seller (if different from the shipper); name and address of the buyer (if different from the consignee); a detailed description of the Goods; country of origin for each part; unit price of each Good; total invoice value; currency of the invoice; carrier name and bill of lading number. The invoice must be issued in the language required by the country to which the Goods are shipped.

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12. Trading Practices

- 12.1. Bribery. Langen values its reputation for ethical behaviour, financial probity and reliability. Langen prohibits the offering, giving, solicitation or acceptance of any bribe, whether cash or other inducement to or from any person, firm or company wherever they are located and whether they are a public official or body or a private individual or company, by the Seller. Seller warrants it has an anti-bribery policy in place and that it will comply with all applicable anti-corruption and anti-bribery laws. If the seller acts, or is believed to have acted, in an unethical manner Langen will, at its discretion, be entitled to terminate this Order with immediate effect. If Langen terminates this Order in accordance with this clause 12.1 no further payment will be paid to the Seller and the Seller will be obliged to refund all sums paid to it by Langen under this Order. Seller further agrees that it will indemnify Langen for all losses, claims, damages and expenses Langen incurs as a result of Seller's actions.
- 12.2. Compliance with Legislation. Seller shall comply with all applicable legislation as it applies to the hiring and treatment of employees, working conditions and environmental standards. Seller shall ensure that the Goods or Services comply with all applicable laws, regulations and industry standards.
- 12.3. Ethical Trading. Seller warrants its employment and health & safety practices meet the guidelines of the ETI Base Code. Upon Langen's request, Seller shall provide evidence of compliance.

13. Miscellaneous

- 13.1. No Assignment. Seller shall not assign its rights or obligations without Langen's prior written consent. Any attempted delegation or assignment shall be void.
- 13.2. Waiver of Terms and Conditions. The waiver of any term or condition of this Order must be agreed in writing by Langen.
- 13.3. Conflicting Terms and Conditions. In the event of any conflict between these terms and conditions and any other terms included on the face of the Purchase Order, the terms on the face of the Purchase Order shall prevail.
- 13.4. Governing Law. This Order shall be governed and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- 13.5. Discontinuance of Goods. Seller shall provide written notice to Langen of the discontinuance of any Good twelve (12) months prior to the discontinuance. Such notice shall include part numbers, substitutions and the last date that Orders will be accepted.
- 13.6. Non-Restrictive Relationships. Nothing in this Order will be construed to preclude Langen from independently developing, acquiring from other third parties, distributing or marketing other Goods or Services which may perform the same or similar functions as the Goods or Services provided under this Order.
- 13.7. Notices. Any notice to be given under this Order shall be sent by fax or registered mail to the other party at the address given on the face of this Order.