

ADDENDUM TO SMITHS NEWS' STANDARD TERMS AND CONDITIONS OF BUSINESS

SALE OF CARDS AND GIFT WRAP

Introduction

To the extent that the Customer orders Cards and Gift Wrap (as defined below) from the Company, Customers are advised in their own best interests to read this addendum (the '**Addendum**') which should be read in conjunction with the Company's standard terms and conditions of business with our customers ('**Standard Terms and Conditions**') which are available at www.smithsnews.co.uk/smiths-news-terms-and-conditions. In particular, the terms of the Standard Terms and Conditions expressly referred to in this Addendum (and any other provisions which by their implication should apply) shall apply equally to this Addendum. If there is any conflict or ambiguity between the terms of this Addendum and the Standard Terms and Conditions, then the terms of this Addendum shall prevail.

This Addendum (and not the separate Sale of Goods Addendum relating to the supply of fast moving convenience goods/FMCG such as drinks, confectionery and related ancillary goods) will form part of the Standard Terms and Conditions and shall apply to all orders by the Customer for the supply of Cards and Gift Wrap by the Company to the Customer. No other terms are implied by trade, custom, practice or course of dealing. The parties agree as follows:

1. Definitions

- 1.1. Unless the context requires otherwise, the defined terms in the Standard Terms and Conditions shall apply to this Addendum.
- 1.2. In this Addendum the words and phrases below shall have the following meanings:

Cards: any Supplier greetings cards to be supplied by the Company to the Customer, details of which (and pricing thereof) may be set out in the Company's online platform or via leaflet or otherwise communicated to the Customer via the Company's call centre.

Contract: the contract between the Company and the Customer for the sale and purchase of the Cards in accordance with this Addendum.

Depreciation Period: 3 years from the date of delivery of the Fixture to the Customer.

Everyday Card: a card which is not a Christmas-related Card or Spring Season-related Card.

Fixture Charge: the charge which arises in the circumstances described clause 4.2 and as calculated in accordance with clause 4.3.

Fixtures: the Supplier's permanent display units provided by the Company (on behalf of the Supplier) to the Customer to display the Cards and Gift Wrap.

Gift Wrap: means any Supplier gift presentation products to be supplied by the Company to the Customer, including, but not limited to roll wrap, flat gift wrap, tags, bows and gift bags.

Seasonal Sale or Return: the permitted returns of Christmas-related Cards and Spring Season-related Cards, in accordance with the terms set out in clause 3.

Spring Season: Valentine's Day, Mother's Day and Father's Day.

Supplier: the relevant supplier of the Cards and Gift Wrap to the Company for onward sale to the Customer.

Order: the Customer's order for the Cards and/or Gift Wrap either via telephone call to the Company's call centre, the Customer's acceptance of the Company's quotation or the Customer's completion of the Company's online ordering process.

2. Orders

- 2.1. Each Order will be subject to a minimum volume requirement specified by the Company to the Customer prior to placing the Order and will be made on a firm sale (no sale or return) basis, except for Seasonal Sale or Return.
- 2.2. The Order constitutes an offer by the Customer to purchase the Cards and/or Gift Wrap in accordance with

this Addendum. The Customer is responsible for ensuring that the terms of the Order are complete and accurate. The Order shall only be deemed accepted by the Company when the Company confirms the Order either in writing or verbally, at which point the Contract shall come into existence. The Company shall deliver the Cards to the Customer in accordance with clause 5 below. If the Company is unable to supply the Cards or Gift Wrap (in whole or in part) for any reason, the Customer will be informed of this and, where part only of the Order can be supplied, the Company will adjust the quantity of the Customer's Order accordingly and process the Order subject to such changes which it reasonably and necessarily makes as a result thereof.

- 2.3. Where the Supplier conducts a range change exercise to replace an incumbent Everyday Card design and the Supplier delivers sufficient quantities of replacement stock, the Company will replace the Customer's stock holding of the outgoing design purchased from the Company.

3. Seasonal Sale or Return

- 3.1. The Customer may return any unsold Christmas-related Cards and Spring Season-related Cards to the Company for full credit provided that:

- 3.1.1.1. The Customer makes the unsold Cards available for collection at the usual point of delivery on the days and times specified by the Company and, **in any event, within 8 weeks of the of the relevant Christmas or Spring Season off sale date notified by the Company to the Customer;**

- 3.1.1.2. The unsold Cards are returned in a dry and saleable condition in the Tote Boxes also used by the Customer for magazine Title returns and together with any returns paperwork and/or sticker which the Company has provided for completion by the Customer. The Company reserves the right to refuse to collect any unsold Cards which do not comply with these requirements;

- 3.1.1.3. The validity of any credit offered by the Company for returned Christmas Cards and Spring Season Cards shall be at the absolute discretion of the Company and shall not be open to challenge or other liability of the Company whatsoever; and

- 3.1.1.4. The Company reserves the right to reject credit for and in respect of any unsold Christmas Cards and Spring Season Cards which it reasonably believes are submitted late or do not comply with the requirements set out in clause 3.1.1.2 above.

- 3.1.2. The Customer accepts that standing order adjustments may be made where supplies of Christmas Cards and Spring Season Cards are returned in accordance with this clause 3.

4. Fixtures

- 4.1. The Company will provide the Fixtures, subject to clause 4.2 below, free of charge for the Customer's sole use at the location agreed with the Company within the Customer's retail premises, provided that the following conditions are strictly adhered to at all times by the Customer:

- 4.1.1. the Supplier will remain the absolute owner of any Fixture during the Depreciation Period and ownership and title to the Fixtures shall not pass to the Customer until the Depreciation Period has expired or the Customer pays the Fixture Charge if earlier. The Customer shall not transfer, part with possession or seek to deal in relation to the Fixtures until the Depreciation Period has expired or it has paid the Fixture Charge;

- 4.1.2. the Fixtures must be kept in a good state of repair and any defects or damage must be promptly reported to the Company;

- 4.1.3. the Fixtures must not be moved without the prior written consent of the Supplier, which the Company will request on behalf of the Customer within 2 working days of receipt of a written request to move (which must set out the reason for the request) from the Customer;

- 4.1.4. the Fixtures are only used to display Cards or Gift Wrap supplied by the Company from the Supplier which owns the Fixture.

- 4.2. **The Customer will be liable to pay a Fixture Charge if the Customer:**

- 4.2.1. breaches any of the conditions set out in clauses 4.1.1 - 4.1.4 above; or

- 4.2.2. does not transfer as a direct customer of the Supplier for equivalent cards and gift wrap if this Addendum terminates in accordance with clause 9 below.

- 4.3. **The Fixture Charge will be the depreciation cost of the Fixture calculated by the Supplier as follows:**

the manufacturer's cost price of the Fixture to the Supplier (excluding VAT and after accounting for depreciation over the Depreciation Period) at the date of termination of this Addendum or the date which is 30 days after the Company receives notification from the Supplier that the Customer is in breach of any of the conditions in clauses 4.1.2 - 4.1.4 below and the breach remains unremedied (such notification to be communicated to the Customer by the Company within 1 business day of receipt). As an example, if the date of calculation of the Fixture Charge is 6 months after the Customer has taken delivery of the Fixture, the

Fixture Charge payable will be 83.3% of the manufacturer's cost price of the Fixture to the Supplier, as there will be 30 months remaining of the Depreciation Period.

- 4.4. If the Customer fails to pay the Fixture Charge if and as it falls due, the Customer must return the Fixture promptly and at the Customer's cost upon the request of the Supplier.

5. Delivery

- 5.1. The provisions of clauses 2.2, 2.3, 2.4, 2.6 and 2.9 of the Standard Terms and Conditions shall apply to delivery of the Cards and Gift Wrap in the same way as they apply to the Titles.
- 5.2. The Company (at its absolute discretion) reserves the right to reimburse or credit (as the case may be) the Customer in respect of any claim for shortages/discrepancies/damaged Cards or Gift Wrap solely in the event that any shortages/discrepancies/damage to the Cards or Gift Wrap are reported to the Company by the Customer within 24 hours of receipt of the Cards or Gift Wrap.
- 5.3. Except as provided in clause 5.2 above, the Company shall have no liability to the Customer in respect of any shortages/discrepancies/damaged Cards or Gift Wrap.
- 5.4. 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.

6. Customer Obligations

- 6.1. The provisions of clauses 3.1, 3.6, 3.7, 3.8, 3.9, 3.10, 3.13 and 3.15 of the Standard Terms and Conditions shall apply to the Cards and Gift Wrap in the same way as they apply to the Titles.
- 6.2. The price of the Cards and Gift Wrap shall be the price set out in the Order, or, if no price is quoted, the price set out in the Company's published price list in force as at the date of delivery.

7. Liability and Errors

- 7.1. The provisions of clause 5 (*Liability*) of the Standard Terms and Conditions shall apply to the Cards and Gift Wrap in the same way as they apply to the Titles.
- 7.2. In the event that on the rare occasion it is uncovered that some of the Cards or Gift Wrap may be incorrectly priced in sales literature or via the Company's online platform, the Company will inform the Customer of this error prior to delivery of the affected Cards or Gift Wrap and will give the Customer the option of continuing to purchase the Cards or Gift Wrap at the correct price or cancelling the Order. The Company will not process the order of the Cards or Gift Wrap until the Customer has confirmed its instructions. If the Customer does not provide any such instructions within 3 days the Company will treat such order as cancelled. If the Company mistakenly accepts and processes any such order where a pricing error is obvious and unmistakable and could reasonably have been recognised by the Customer as a mispricing, the Company may nevertheless cancel supply of the Cards or Gift Wrap.

8. Title and Risk

- 8.1. The provisions of clause 6 (*Risk*) of the Standard Terms and Conditions shall apply to the Cards or Gift Wrap in the same way as they apply to the Titles.

9. Termination

- 9.1. The provisions of clause 4 (*Termination*) of the Standard Terms and Conditions shall apply to the Cards or Gift Wrap in the same way as they apply to the Titles.
- 9.2. Without prejudice to clause 9.1 above, this Addendum shall terminate with immediate effect if and to the extent that the Customer's supplies of Titles to it from the Company pursuant to the Standard Terms and Conditions terminates, is cancelled or where such supplies are suspended or cease for whatever reason.

10. Force Majeure

- 10.1. If the Company is either prevented, delayed and/or hindered from carrying out its obligations by any circumstances beyond the Company's reasonable control including (but not limited to) acts of God, seizure under legal process, riots, civil commotion or unrest, demonstrations, strikes or lock-outs (general or partial stoppage), any consequence of war, terrorism and kindred risks, labour disputes of any kind, industrial action of any nature whatsoever (whether any of the foregoing relate to the Company's employees, agents, contractors or others), fire, floods, storms, delays or cancellations on the rail network, traffic accidents, serious traffic congestion, any shortage of paper, ink or fuel supply (or the supply of any other essential materials or services) or compliance with any law, governmental or regulatory order, rule, regulation, undertaking or direction (each being '**an event of force majeure**'), the Company's ongoing obligations under this Addendum will remain in effect but will be temporarily suspended without liability to the Customer for so long as an event of force majeure shall continue.

11. General

- 11.1. The provisions of clause 7 (*General*) of the Standard Terms and Conditions shall apply to the Cards or Gift Wrap in the same way as they apply to the Titles.

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