

SALES TERMS OF TRADE PHILIPPINES

Unless otherwise agreed in writing and signed by both parties, you, the Company specified on the Quotation (“You” or “Your”) and Sealed Air entity named in the quotation (“Us”, “We” or “Our”) agree that all orders are accepted and all sales are made subject only to these terms of trade as varied by the quotation specifying the Goods and Services to be supplied (“Quotation”). No other terms will apply including without limitation terms contained in Your preprinted forms. These terms of trade together with the applicable Quotation shall constitute the entire Terms & Conditions applicable to You and each order (“Contract”). Neither party shall be bound by nor liable to the other for any representation, promise or inducement made by that party or any agent or person in that party’s employ and not embodied in the Contract unless otherwise expressly agreed between the parties.

- (1) The Goods and Services identified in the Quotation and in the applicable statement of work (“SOW”) will be delivered to You at the address specified in the Quotation. Title and risk in Goods purchased will pass on delivery unless otherwise specified in the Quotation. We will retain title to Goods that are leased or supplied to You free on loan but You will be responsible to keep those Goods safe and indemnify us for loss or damage.
- (2) You must pay the amount and currency as specified in Our invoice. Prices are exclusive of any taxes, levies, cost of documents and any other charges, which shall be charged to You, unless otherwise explicitly indicated in Our invoice. Payment is due and payable free of any deductions or set-offs on delivery of the Goods unless credit terms have been approved by Us, in which case payment must be made as specified in the invoice. Services must be paid for in advance unless otherwise specified in the Quotation or the applicable SOW. Prices are subject to change without notice. Quoted price will apply for 30 days or as otherwise specified in the Quotation. We reserve the right to decline an order. Under no circumstances will You withhold any amount due to Us because of a disputed claim of any nature.
- (3) If You fail to comply with the Contract or if We at any time have doubts as to Your financial responsibility or You fail to pay any amount when due, We shall be entitled to (1) decline to make further deliveries until and unless such amount is paid; and (2) impose a Late Payment Interest Charge of either (i) 2% per month; or (ii) a rate that is allowable legally under the local regulation (whichever is lower); and (3) claim compensation from You of all costs incurred in order to obtain payment of the amount due. You are not entitled to offset any claims allegedly owed by Us to You against the payment of the amount specified in Our invoice.
- (4) In the absence of proper evidence or exemption supplied to Us, You will reimburse Us for any and all taxes, levies, excise or other charges which We may be required to pay to any government authority (national, state or local) upon or measured by the production, storage, sale, transportation and/or use of the Goods.
- (5) Where price includes delivery of the Goods then We will notify You of indicative date and timing for delivery. Where We undertake to deliver the Goods, delivery shall take place when such Goods are loaded off Our or a third party’s vehicle, ship or any other transport at the station, port or address specified in the Quotation. If You require different delivery arrangements other than as agreed in the Quotation, then We may charge additional delivery fees. Where You undertake to collect the Goods, delivery shall take place when such Goods are loaded on Your or a third party’s vehicle or any other transport at Our stipulated address. Except as otherwise agreed in writing, all Goods delivered to You are for Your own consumption only. We may cancel one or more transactions if You do not comply with this requirement or any other term of the Contract. We will only be liable for non-delivery or late delivery if such non-delivery or late delivery is caused directly by Our willful default or gross negligence.
- (6) Our invoice weights, volumes, sizes and fares shall be treated as final and binding, except that, in case of conflict with bulk carload or tank car shipments, then the carrier’s weights shall prevail.
- (7) You must examine and test the Goods immediately following delivery of the Goods and before any transformation of the Goods from its original condition, and You agree to make no claim against Us after any part of the Goods has been treated, processed or changed in any manner (except for reasonable test quantities). You assume sole responsibility for determining whether the Goods are suitable for Your contemplated use (whether or not such use is known to Us). You agree to notify us in writing of all claims relating to the Goods within 30 days after delivery of the Goods otherwise You acknowledge that We shall not be liable for Goods that are missing, wrong or damaged.
- (8) WARRANTY: If any of the Goods are found to be defective and You notify Us in writing within 30 days of delivery. We will at Our sole option accept return of Goods and either (i) repay or issue a credit note in respect of the purchase price, or (ii) replace at the factory (which shall become Our property) or repair any of the Goods (exclusive of Goods purchased by Sealed Air from others and resold as such), which after examination by Us are proved to Our satisfaction, to have failed to comply in all material respects with the specifications for the Goods. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER TERMS OR CONDITIONS OR WARRANTIES OF ANY KIND EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. You release Us from all other obligations or liabilities with respect to the Goods, including any liability for special, incidental, indirect, consequential or penal damages or expenses, including without limitation, pure economic loss, loss of profits, loss of business, lost goodwill, lost revenue and lost opportunity. We make no warranty or representation of any kind, with regard to third party products. These are generally warranted by their respective manufacturers. You agree that any advice provided by Us at no charge is our best judgment without having reviewed Your environment and does not provide any guarantee or warranty as to the suitability or fitness of Goods for your purpose. If We are not retained to provide consulting services then You must undertake Your own review and assessment of fitness for its environment.
- (9) The purchase of Goods or Services hereunder confers no intellectual property rights, title or interest in such Goods or Services to You.
- (10) Every effort will be made to meet Your deadlines but delay or failure to do so by reason of Our inability to obtain supplies of raw materials from usual sources or by reason of labor trouble, inclement weather, war, riots, civil commotion, fire, epidemic, quarantine, decisions or omissions of public authorities, Acts of God or any other cause whatsoever beyond Sealed Air’s control (“Force Majeure”) shall not constitute a breach of contract. In the event of Force Majeure We reserve the right to either: (a) suspend performance and extend the time for performance of the Contract for the duration of the force majeure event, or (b) cancel all or any part of the unperformed part of the Contract and/or any orders for Goods and Services without liability to You. Either party may renew the Contract on cessation of Force Majeure which prevented performance of the Contract.
- (11) Each Contract may only be assigned with consent in writing of the other party. No changes in or additions to this contract shall be of any effect unless contained either in the Quotation or in writing signed by both parties. Our failure to insist upon strict performance of any of the terms and conditions of the Contract, or delay in exercising any of Our remedies, shall not constitute a waiver of such terms and conditions or a waiver of any breach, or of any remedy thereof.
- (12) Each Contract and these Terms & Conditions are governed by and interpreted in accordance with the laws of the Republic of the Philippines. Parties agree to submit to the non-exclusive jurisdiction of the Philippine courts.
- (13) Variance of transparent flexible packaging material of not more than 10% in deliveries of each type of printed or non-standard bag and/or pouch and/or film resulting from over or under runs shall constitute good delivery. However, the allowable overage or underage shall be 25% (a) if the order is for each type of such bag and/or pouch in quantities of less than 5,000 (b) if the order is for each type of such film in quantities of less than 10,000 printed impressions or less than 900 square meters respectively.
- (14) PRINTING: All printed art work and compositions are done on Your instructions and You assume all liability for any resulting infringement of copyrights and trademarks and will hold Sealed Air harmless for any liability therefore. While Sealed Air will use its best efforts to see that printing art work and compositions are in accordance with Your instructions. Sealed Air assumes no responsibility whatsoever for errors therein.