

TERMS AND CONDITIONS

CLAUSE 1 – DEFINITIONS

- 1.1 In these Conditions the following words have the following meaning:-
“the Buyer” means the person or persons, firm or Company who accepts a quotation of the Company for the supply of goods;
“the Company” means Plastech Limited of Park Industrial Estate, Liverpool Road, Ashton-in-Makerfield, Wigan, WN4 0YU whose registered office is situated at Richard House, Winckley Square, Preston, Lancashire, PR1 3HP and whose Company Number is 02950333
“the Contract” means the Contract between the Company and the Buyer for the sale and purchase of the goods incorporating these Conditions;
“Conditions” means the Terms of Sale set out in this document and any special Terms and Conditions agreed in writing by the Company;
“delivery point” means the place where delivery of the Goods is to take place under Condition 5; and
“Goods” means any Goods which the Buyer agrees to buy from the Company and as set out in the Company's quotations, emails or verbally given.
- 1.2 In these Conditions any heading will not affect the construction of these Conditions

CLAUSE 2 – CONDITIONS APPLICABLE

Unless otherwise agreed in writing these Conditions shall override any Conditions or terms stipulated, referred to or incorporated by the Buyer in his order or negotiations with the Company

CLAUSE 3 – QUOTATIONS AND ORDERS

- 3.1 The Company makes all quotations on the basis that the goods quoted for will be ordered. The quotation is based on information available to the Company at the date of quotation unless otherwise stated subject to any increase in costs between the date of the quotation and the date of the delivery of the Goods.
- 3.2 No Contract shall exist between the Company and the Buyer until the Buyer's order has been accepted by the Company.
- 3.3 The Buyer shall be responsible to the Company for ensuring the accuracy of the terms of any order submitted, and for giving the Company any necessary information relating to the Goods within sufficient time to enable the Company to perform the Contract in accordance with its terms.
- 3.4 The Company reserves the right to amend quotations when typographical, clerical or other errors have been made and when confirmed orders do not match the original quotation. (Typographical errors will be amended and

notified to the Buyer immediately in writing and no orders will be processed until the Buyer amends their copy and re-sends it to the Company stating the correct prices or information).

- 3.5 All orders are accepted subject to availability of the Goods.
- 3.6 No order which has been accepted by the Company may be cancelled either by or except with the agreement in writing of the Company and on terms that the Buyer shall indemnify the Company in full against all loss (including loss of profit), costs, damages, charges and expenses incurred by the Company as a result of cancellation.
- 3.7 The Seller may cancel this Contract at any time before the Goods are delivered by giving written notice. On giving such notice the Seller shall promptly repay to the Buyer any sums paid in respect of the price. The Seller shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 3.8 Prices quoted are subject to alteration without prior notice to conform with those ruling at the time of despatch.
- 3.9 Orders for non-stock items or fabricated "specials" including assemblies of catalogue items cannot be cancelled once the order has been accepted by the Company.
- 3.10 Slight deviations in quality, size, colour and finish which from a technical point of view are unavoidable or under common commercial practice cannot serve as ground for complaint.

CLAUSE 4 – DESCRIPTION

- 4.1 The description of the Goods shall be as set out in the Company's quotation.
- 4.2 All descriptive matter and advertising issued by the Company in any description or administrations contained in the Company's catalogue or brochures or any other document are issued and published with the sole purpose of giving an approximate idea of the Goods described in them. They will not form part of this Contract.

CLAUSE 5 – DELIVERY

- 5.1 The delivery point for the delivery of the Goods shall be at the "address requested by the Buyer".
- 5.2 Where the Company agrees to deliver the Goods otherwise than at the Company's premises the Company shall be under no obligations under Section 32(2) of the Sale of Goods Act 1979.
- 5.3 Any dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by

notice. If no dates are specified delivery will be within a reasonable time.

- 5.4 Where delivery of the Goods is to be in instalments, each delivery shall constitute a separate Contract and failure by the Company to deliver any one or more of the instalments in accordance with these Conditions or any claims by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 5.5 Subject to the other provisions of these Conditions the Company will not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence) nor will any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 90 days.
- 5.6 If for any reason the Buyer will not accept delivery of any of the Goods when they are ready for delivery or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:-
- i. Risk in the Goods will pass to the Buyer (including for loss or damage caused by the Company's negligence).
 - ii. The Goods will be deemed to have been delivered.
 - iii. The Company may store the Goods until delivery whereupon the Buyer will be liable for all related costs and expenses (including without limitation storage and insurance).
- 5.7 Any goods received by the Buyer which are despatched in error or otherwise are unsuitable must be notified by fax to the Company giving identifying information and requesting the issuing of a Returns Note by the Company.
- 5.7.2 No goods returned by the Buyer to the Company will be accepted during transit unless accompanied by a Returns Notice issued by the Company.
- 5.8 Any claims concerning errors in packaging or damaged goods or short delivery must be notified in writing to the Company within 24 hours of the date of delivery. If the Buyer does not return such Goods (in accordance with the terms herein) or make the Goods available for collection within 7 days they will be deemed to have accepted them and payment will become due.
- (ii) Returns of correctly despatched goods of saleable quality will be subject to a 20% restocking charge plus any delivery costs.

CLAUSE 6 – NON DELIVERY

- 6.1 The quantity of any consignment of Goods as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

- 6.2 The Company shall not be liable for any non delivery of Goods (even if caused by the Company's negligence) unless written notice is given to the Company within 24 hours of the date when the Goods would in the ordinary course of events have been received.
- 6.3 Any liability of the Company for non delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

CLAUSE 7 – RISK /TITLE

- 7.1 The Goods are at the risk of the Buyer from the time of delivery.
- 7.2 Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of the Goods and
- 7.2.1 All of the sums which are or which become due to the Company from the Buyer on any account.
- 7.3 Until ownership of the Goods has passed to the Buyer the Buyer must:-
- Hold the Goods on a fiduciary basis as the Company's Bailee;
 - Store the Goods (at no cost to the Company) separately from all other Goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property; and
 - Maintain the Goods in a satisfactory condition insured on the Company's behalf for their full price against all risk to the reasonable satisfaction of the Company;
- 7.4 Until such time as the property and the Goods passes to the Buyer, the Company shall be entitled at any time to require the Buyer to deliver up the Goods to the Company and if the Buyer fails to do so forthwith the Goods are to be stored at the Buyer's expense and the Company shall be entitled to repossess the Goods.
- 7.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company, but if the Buyer does so all money owing by the Buyer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.
- 7.6 Until such time as the property and the Goods passes from the Seller to the Buyer the Buyer shall upon request deliver up such of the Goods as have not ceased to be in existence or resold to the Seller. If the Buyer fails to do so the Seller may enter upon any premises owned by or controlled by the Buyer where the Goods are situate and repossess the Goods any such costs being payable by the Buyer.
- 7.7 The Buyer shall not permit or suffer any lien charge or encumbrance to arise in respect of the Goods.

- 7.8 If the Goods or any part of the Goods are incorporated in or used as materials for any other product the property and the whole of that product shall be vested in the Company until full payment to the Company of any outstanding sums has been made.

CLAUSE 8 – PRICE AND PAYMENT

- 8.1 Unless otherwise agreed by the Company in writing the price for the Goods shall be the price set out in the Company's price list published on the date of delivery or deemed delivery.
- 8.2 The price of the Goods shall be exclusive of any Value Added Tax and all costs or charges in relation to loading, unloading, carriage and insurance all of which amounts the Buyer will pay in addition when it is due to pay for the Goods.
- 8.3 Except as otherwise agreed payments of the price for the payment shall be of the essence.
- 8.4 No payment shall be deemed to have been received until the Company has received the funds.
- 8.5 All payments payable to the Company under the Contract shall become due immediately upon termination of this Contract despite any other provision.
- 8.6 The Buyer shall make all payments due under the Contract without any deduction whether by way of set off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid Court Order requiring an amount equal to such deduction to be paid by the Company to the Buyer.
- 8.7 If an invoice is 60 days or more overdue the Company shall charge the Buyer interest on all overdue sums at the rate of 6% per month above the base rate of Barclays Bank Plc from time to time both before and after Judgment on a day to day basis from the date such sum became due until the date of actual payment to the Company of the sum with interest.
- 8.8 The Buyer shall indemnify the Company against all costs and expenses (including any legal expenses on a full indemnity basis) incurred by the Company in recovering sums due from the Buyer.
- 8.9 For approved Credit Accounts (for which prior approval must be obtained by the Buyer from the Company) the invoice value is payable at the end of the month of which the invoice is dated plus 30 days.

CLAUSE 9 – WARRANTY AND LIABILITY

- 9.1 The Company will use all reasonable endeavours to pass to the Buyer the full benefit of any Warranty available to the Company from the Manufacturer and/or supplier of the Goods.

- 9.2 The following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, Agents and sub-contractors) to the Buyer in respect of:-
- a. Any breach of these Conditions and
 - b. Any representations, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 9.3 Subject as expressly provided in these Conditions and except where Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) (as may be amended from time to time) all Warranties, Conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 9.4 Nothing in these Conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.
- 9.5 Subject to Conditions 9.3 and 9.4:-
- a. The Company's total liability in contract tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the price of the Goods; and
 - b. The Company shall not be liable to the Buyer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise) costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- 9.6 Goods which are proved by the Buyer to the Company's satisfaction to be defective may be replaced at the discretion of the Company always provided there is a current Guarantee recognised by the manufacturer of the Goods.
- 9.7 It is the responsibility of the Buyer to check the suitability and condition of all Goods supplied by the Company before use.

CLAUSE 10 – NON SOLICITATION

The Buyer agrees for a period of 2 years from the date of this Contract that the Buyer will not in any way directly or indirectly induce or attempt to induce any employee or contractor of the Company to terminate their employment or retainer with the Company or otherwise interfere with or disrupt the Company's relationship with its employees and any contractors or discuss any employment opportunities or provide information about competitive employment to any of the Company's employees or contractors or solicit, entice or hire away any employee or contractor of the Company for the purpose of an employment opportunity to that employee in competition with the Company and further shall not seek to procure orders from or do business with any person, firm or Company who has at any time during the term of the Contract or for 2 years thereafter done business with the Company or any of

its subsidiaries or associated Companies and if the Buyer shall be in breach of this agreement then the Company shall be entitled to seek damages as against the Buyer for any consequential losses to include loss of profit.

CLAUSE 11 – FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is due to circumstances beyond the reasonable control of the Company including, without limitation acts of God, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock outs, strikes or other labour disputes (whether or not related to either party's workforce) or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials. Provided that, if the event in question continues for a continuous period in excess of 90 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

CLAUSE 12 – GENERAL

- 12.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 12.2 If any provision of the Contract is found by any Court, Tribunal or Administrative Body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provision of the Contract and the remainder of such provisions shall continue in full force and effect.
- 12.3 Failure or delay by the Company in enforcing or partially enforcing any provision of this Contract will not be construed as a waiver of any of its rights under the Contract.
- 12.4 Any waiver by the Company of any breach or any default under any provision of the Contract by the Buyer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.
- 12.5 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English Law and the parties submit to the exclusive jurisdiction of the English Courts.