



PLASTISERVE LIMITED - CONDITIONS OF SUPPLY

THESE CONDITIONS OF SUPPLY CONTAIN LIMITATIONS UPON PLASTISERVE LIMITED'S LIABILITY AND THE BUYER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF PARAGRAPHS 4.1, 5.1 AND 7

1. Definitions

These Conditions of Supply shall apply to all orders given to and accepted by Plastiserve Limited, a limited company registered in England & Wales, company number 09991857, whose registered office is Unit 7 Ashfield Close, Whitehall Industrial Estate, LEEDS, West Yorkshire, LS12 5JB.

In these conditions "the Seller" means Plastiserve Limited, "the Buyer" means the person, firm or company purchasing the Goods and "the Goods" means the goods or materials which shall be the subject of the contract between the Seller and the Buyer together with the packaging for such Goods.

2. Incorporation of Conditions of Sale

These conditions are the only ones to which the contract for the sale or supply of the Goods (including without limitation any supply of Goods on a free of charge basis and any supply of replacement Goods pursuant to paragraph 7.3) by the Seller to the Buyer is subject. Any other conditions proposed or stipulated by the Buyer in whatever form, written or oral, are hereby expressly waived and excluded. These conditions may not be varied except by the written consent of a duly authorised representative of the Seller. **An acceptance of the Seller's quotation for the sale or supply of the Goods or of delivery of the Goods implies an unconditional acceptance of these conditions.**

3. Price

3.1 An order given by the Buyer is not binding on the Seller until accepted by the Seller in writing or by making delivery or supplying the Goods.

3.2 The Goods will be charged at the price ruling at the date of delivery and will be subject to Value Added Tax or any other applicable tax which the Buyer shall pay in addition when it is due to pay for the Goods. This is irrespective of any quotation given prior to that date, or of any price charged for



similar goods previously delivered unless the sale is specifically stated in writing by the Seller to be at a fixed price or the quotation was in writing and stated to be open for a fixed period and an order was accepted by the Seller in writing within that fixed period.

3.3 Prices quoted or charged include packaging. Unless otherwise agreed, the Buyer shall properly and safely dispose of all packaging.

3.4 Prices quoted or charged are ex-works. Delivery is chargeable and will be typically during normal working hours within 2 working days to any place within the United Kingdom specified by the Buyer except that special delivery at the Buyer's request by expedited, recorded or insured delivery will at the Seller's discretion be charged at a higher commercial rate.

3.5 The Seller reserves the right to apply a surcharge on orders of a weight or volume above or below a certain level, or to delivery addresses within certain postcodes, as notified to the Buyer from time to time.

3.6 The Seller reserves the right to apply a surcharge for fuel, for customs clearance and other administrative tasks, or other such costs as may be incurred due to prevailing market conditions.

4. Payment

4.1 Accounts are strictly net. Unless otherwise indicated on the Invoice, payment is due no later than 30 days following the date of the Seller's invoice to the Buyer, or before delivery if required by the Seller.

4.1.1 The Buyer authorises the Seller, in order to process any application for, or to monitor and review credit facilities, to supply personal and business information to credit reference agencies (CRAs) and credit insurance companies and authorises the Seller to obtain information relating to the Buyer's financial history.

4.1.2 The Buyer authorises the Seller to use this information to assess creditworthiness and product suitability, check identity, manage the Buyer's account and credit limit, trace and recover debts and prevent criminal activity.



4.1.3 The Buyer authorises the Seller to continue to exchange information about the Buyer with CRAs on an ongoing basis, including about settled accounts and any debts not fully repaid on time. The Buyer acknowledges that CRAs will share information with other organisations. The identities of the CRAs, and the ways in which they use and share personal information, are explained in more detail at:

<http://www.experian.co.uk/crain/index.html>

4.1.4 The Buyer authorises the Seller to continue to exchange information about the Buyer with their credit insurers, Euler Hermes, on an ongoing basis, including about settled accounts and any debts not fully repaid on time. The Buyer acknowledges that Euler Hermes will share information with other organisations. For more information, visit:

<https://www.eulerhermes.co.uk/>

4.1.5 Payment shall be made by cash, Direct Debit, BACS, PayPal, debit or credit card in the currency and via the means specified on the invoice, unless previously agreed in writing with the Seller. Payment shall not be made by cheque.

4.2 Where the Buyer fails to pay any monies on the due date or does not comply with an obligation imposed upon the Buyer under these conditions or where the financial standing of the Buyer becomes unsatisfactory in the opinion of the Seller, then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:

4.2.1 withhold the supply of any Goods to be provided to the Buyer; and/or

4.2.2 suspend the performance of any obligation owed by the Seller under these conditions; and/or

4.2.3 require payment in full by the Buyer for all the Goods which the Buyer has agreed to purchase further to the contract before supplying those Goods; and/or

4.2.4 terminate the contract and any other contract between the Buyer and the Seller without prejudice to any claim the Seller may have for Goods already delivered.



4.3 The Seller reserves the right to claim interest (at 8 per cent over the Bank of England base rate) and compensation for debt recovery costs under the terms of the Late Payment of Commercial Debts (Interest) Act 1998 on any sums, fees or other charges payable under the contract which are not paid on the due date and such interest may be charged from the due date until payment is made in full (both before and after judgement, such interest to accrue on a daily basis.

4.4 The Seller reserves the right to assign to any third party, at any time, the rights to any sums, fees or charges payable under the contract, or part thereof.

4.5 The Buyer shall make all payments due under the contract without deduction whether by way of set off, claim, counterclaim or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Seller to the Buyer.

4.6 The Buyer agrees to indemnify the Seller in full and hold the Seller harmless from all expenses and liabilities that the Seller may incur (directly or indirectly including financing costs, including legal costs on a full indemnity basis and the cost of instructing a debt recovery agency to recover a debt due to the Seller if any) following any breach by the Buyer of any of the Buyer's obligations under these terms.

5. Delivery

5.1 The Seller shall use reasonable endeavours to deliver Goods by the time and on the date specified but such time and date for delivery shall not be of the essence of the contract and may not be made so by notice to the Seller. The Seller shall have no liability for any loss or damage howsoever arising (even if caused by the Seller's negligence) from such delay in delivery.

Delivery of the Goods shall take place:

5.2.1 where the Seller undertakes delivery of the Goods, when they are loaded off the Seller's or a third party's vehicle, ship or other transport at the station, port or address specified by the Buyer;

5.2.2 where the Buyer undertakes to collect the Goods, when they are loaded on the Buyer's or a third party's vehicle or other transport at the address of the Seller or the address of any storage or warehouse facility used by the Seller for storage of goods.



From the time delivery of the Goods is deemed to have taken place pursuant to Conditions 5.1 or 5.2:

(a) risk in the Goods shall pass to the Buyer; and

(b) the Seller shall have no further obligations whatsoever in relation to the transportation, care or storage of the Goods **provided always** that if the Seller elects to arrange transportation of the Goods to the Buyer, to load or unload the Goods and/or to store the Goods pending collection by the Buyer (as applicable), the Buyer shall indemnify and keep indemnified the Seller fully on demand in respect of any and all costs and/or expenses incurred by the Seller in connection with or paid by the Seller in so doing.

5.3 The Buyer shall examine the Goods following delivery. Unless notice of any loss or damage in transit is given by the Buyer and received by the Seller within three (3) days after delivery, the Seller shall be relieved and discharged from all liability in respect thereof.

5.4 The Seller may deliver against an order a reasonable excess or deficiency of weight or volume ordered. The actual quantity delivered will be stated in the invoice and charged for pro rata.

5.5 The Seller shall be entitled to deliver the Goods by instalments and to invoice the Buyer for each instalment. Each instalment will be considered a separate transaction and the failure of any one delivery shall not affect the due performance of the contract as a whole.

5.6 Section 32(3) of the Sale of Goods Act 1979 shall not apply.

5.7 In the event that the Seller agrees to supply Goods to the Buyer's specification and/or the Seller agrees to allocate Goods solely for supply to the Buyer, the Buyer hereby agrees to purchase from the Seller the entire quantity of the Goods in question obtained by the Seller in order to fulfil any such order placed by the Buyer in respect of such Goods. The Seller at its sole discretion, may agree in writing to deliver the quantity of Goods ordered by the Buyer pursuant to this Condition 5.7 at such intervals as required by the Seller (on a call-off basis on written notice by the Buyer of such requirement) provided that all such Goods shall be delivered to the Buyer by no later than 6 calendar months from the date of the Contract. Any notification given to the Seller to call-off Goods pursuant to this Condition 5.7 shall specify the quantity of Goods the Buyer requires pursuant to this provision



subject to any minimum call-off quantities which may be specified by the Seller in the Order Acknowledgement or otherwise from time to time. Any Goods ordered by the Buyer pursuant to this Condition 5.7 which have not been requested and delivered to the Buyer upon the expiry of the period which is 6 calendar months following the date of the Contract shall be deemed to have been delivered on and including the final day of such period and the provisions of Condition 5.8 shall apply.

5.8 If the Buyer fails to take delivery of Goods at the time stated for delivery (otherwise than by reason of the Seller's fault) or fails to give the Seller adequate delivery instructions then, without prejudice to any other right or remedy available to the Seller, the Seller may at its sole option without giving notice to the Buyer:

- a) store Goods until actual delivery occurs and charge the Buyer for the reasonable costs (including handling and insurance) of storage; and/or
- b) sell the Goods and retain any proceeds of sale; and/or
- c) dispose of the Goods in any manner it sees fit and recover from the Buyer (less any proceeds of sale retained by the Seller pursuant to Condition 5.8(b)) all sums payable to the Seller under the Contract.

5.9 The risk of loss and damage to Goods (including for loss or damage caused by the Seller's negligence) shall pass to the Buyer on delivery.

6. Force Majeure

6.1 Any delay in or failure of performance of any obligation by either party (save an obligation in respect of the payment of monies) shall not constitute a breach of such obligation but only to the extent that such a delay or failure is caused by an event which is not within the reasonable control of the party otherwise in default and which such party is unable to prevent or to circumvent by the exercise of reasonable diligence including without limitation an event such as a strike, lock-out or other industrial action or trade dispute (whether or not involving the work-force or a part of the work-force of the party otherwise in default). The party otherwise in default shall take all reasonable steps to circumvent and mitigate the effect of such event and to reduce any delay in the performance of such obligation.



6.2 In addition, after any such event has continued for more than thirty (30) days, the Seller may terminate the contract without having liability to the Buyer but without prejudice to any claim the Seller may have for Goods already delivered.

7. Warranty and Liability

7.1 The Seller's charges to the Buyer are determined on the basis of the exclusions from and limitations of liability contained in these conditions. The Buyer expressly agrees that these exclusions and limitations are reasonable because of (amongst other matters) the likelihood that otherwise the amount of damages awardable to the Buyer for a breach by the Seller of the contract may be disproportionately greater than the price of the Goods.

7.2 The Seller warrants that the Goods are manufactured with all reasonable care and skill and, where applicable, comply with the standard specifications set out in the Seller's published literature in relation to the Goods current at the date of the Buyer's order and made available to the Buyer and that the Goods are of satisfactory quality. Subject to the provisions of sub-paragraphs 7.3 to 7.4, all other conditions, warranties or obligations whether express or implied by statute, common law or otherwise and relating to the Goods and/or any packages or containers are excluded to the maximum extent permissible in law.

7.3 If any of the Goods shall be found to be defective and such defects are reported by the Buyer in writing to the Seller in the case of apparent defects within fourteen (14) days of delivery and in the case of latent defects within fourteen (14) days of the date on which those defects could reasonably have been first identified, the Seller shall, at its option, either rectify or replace the defective part of the Goods at the place of delivery and in the condition originally specified or credit the Buyer with a corresponding proportion of the original invoice price but shall not be under any other liability in respect of either the original or any replacement Goods.

7.4 The Seller shall be under no liability in respect of alleged defective Goods unless:

7.4.1 The Buyer gives to the Seller written notice and details of the defect within the period mentioned in sub. paragraph 7.2;



7.4.2 The Buyer gives the Seller's representative adequate opportunity to inspect the Goods and remove samples for analysis; and

7.4.3 The Buyer has used, kept, maintained or dealt with the Goods properly and the Buyer has forthwith ceased processing.

7.5 Save as provided in sub-paragraph 7.1, all descriptions and other particulars supplied by the Seller in catalogues, price lists or other documents issued by the Seller or statements made orally are given for general information purposes only.

7.6 The Buyer acknowledges that it is relying on its own expertise and knowledge and not that of the Seller in entering into the contract and the Buyer is solely responsible for satisfying himself as to the suitability of the Goods for any particular purpose and relies solely on his own skill and judgement and not the Seller's skill and judgement in determining such suitability.

7.7 The Buyer acknowledges that in entering into the contract it has not relied upon any representations other than those reduced to writing in the contract.

7.8 The provisions in this paragraph 7 (together with those in paragraphs 5, 6 and 9) set out the Seller's entire liability (including any liability for the acts and omissions of its employees, agents or sub-contractors) to the Buyer in respect of:

7.8.1 a breach of the Seller's contractual obligations;

7.8.2 a tortious act or omission for which the Seller is liable;

7.8.3 an action arising out of a misrepresentation by or on behalf of the Seller arising in connection with the performance or contemplated performance of the contract.

7.9 Provided that nothing in this paragraph 7.9 shall confer on the Buyer any right to claim any higher sum in damages than that sum which the Seller would be entitled to claim in the absence of this paragraph 7.9 the total liability which the Seller shall owe to the Buyer in respect of all claims shall not exceed the sum of five thousand pounds.



7.10 The Seller shall not be liable to the Buyer for any pure economic loss, loss of profits, loss of business, loss of reputation, depletion of brand value, depletion of goodwill, consequential loss and like loss whether arising directly or indirectly.

7.11 The Buyer shall only be entitled to bring a claim against the Seller where the Buyer issues legal proceedings against the Seller within the period of twenty four (24) months commencing on the date upon which the Buyer ought reasonably to have known of its entitlement to bring such a claim.

7.12 Notwithstanding anything to the contrary in these conditions, the Seller's liability to the Buyer for:

7.12.1 death or personal injury resulting from the negligence of the Seller, its employees, agents or subcontractors;

7.12.2 damage suffered by the Buyer as a result of a breach by the Seller of the condition as to title or the warranty as to quiet possession implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; and

7.12.3 damage for which the Seller is liable to the Buyer under Part 1 of the Consumer Protection Act 1987;

7.12.4 fraud or fraudulent misrepresentations by the Buyer;

Shall not be limited save that nothing in these conditions shall confer a right or remedy upon the Buyer to which the Buyer would not otherwise be entitled.

7.13 The exclusions from and limitations of liability set out in these conditions shall be considered severally.

7.14 The provisions of this paragraph 7 (together with those in paragraphs 5, 6 and 9) shall survive any termination of the contract.



8. Passing of Property and Risk

8.1 The ownership and property in any Goods delivered by the Seller to the Buyer shall remain in the Seller until the Seller has received in cash or cleared funds from the Buyer payment in full of all sums due and interest thereon on any account.

8.2 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, but shall be entitled to resell or use the Goods in the ordinary course of its business. The Buyer shall account to the Seller for the proceeds of the sale of the Goods.

8.3 If the Buyer:

8.3.1 has any distress or execution levied against the Goods or any of the Buyer's assets; or

8.3.2 has a bankruptcy order made against the Buyer; or

8.3.3 goes into liquidation whether voluntary or compulsory; or

8.3.4 makes an arrangement with the Buyer's creditors; or

8.3.5 has an administrator, administrative receiver or any other receiver or manager appointed over any of the Buyer's assets; or

8.3.6 pledges or in any way charges by way of security for any indebtedness any of the Goods which remain the property of the Seller; or

8.3.7 receives a written demand from the Seller to pay overdue sums owed to the Seller; or

8.3.8 has, whether intentionally or otherwise, any bill of exchange, cheque or other negotiable instrument drawn or accepted by the Buyer in favour of the Seller dishonoured on presentation for payment; then the Buyer's consent from the Seller to do the acts referred to in sub-paragraph 8.2 shall determine and be deemed to have determined forthwith and the Buyer shall not thereafter sell or use Goods belonging to the Seller, save with the consent in writing of the Seller, until the Seller has been paid in full in accordance with sub-paragraph 8.1.



8.4 The Buyer shall ensure that, in the event of any re-sale of the Goods in accordance with sub-paragraph 8.2, the contract of sale between the Buyer and his purchaser shall contain retention of ownership clause which will have the same effect for the Buyer as paragraph 8 of these conditions has for the Seller.

8.5 The Seller may at any time recover and dispose of any Goods in which the Seller has retained the property under sub-paragraph 8.1 and for this purpose has the Buyer's consent to enter any premises in which the Goods may be lying.

8.6 The Buyer agrees to store or move all Goods that are the property of the Seller in such a way that they are readily identifiable as such, to insure the same for their full value and to make a note in its accounting records that the Goods are the property of the Seller.

8.7 Notwithstanding the provisions in sub-paragraph 8.1, the Goods shall be at the risk of the Buyer from the time when they are delivered in accordance with paragraph 5.

8.8 Where the property in the Goods has not passed, the Seller may nevertheless maintain an action against the Buyer for the purchase price and all other monies owing to the Seller in relation to the Goods notwithstanding Section 49 of the Sale of Goods Act 1979.

8.9 Where at any time prior to the property in the Goods passing to the Buyer, the Seller exercises or attempts to exercise its rights to recover and dispose of the Goods, the Buyer shall be liable to reimburse the Seller for all costs associated with and ancillary to any such recovery and repossession including without limitation the legal and other cost of collection, the cost of re-examining the Goods to determine their suitability for onward sale to a third party, the cost of storage of those Goods pending onward sale and any reduction in the value of the Goods.

9. Intellectual Property

No warranty or representation is given by the Seller that the Goods do not infringe any patents, trade marks, registered designs, design rights or other industrial or intellectual property rights.



10. DESIGN ALTERATIONS AND SUBSTITUTION OF GOODS

10.1 The Buyer agrees that:

(a) The Seller shall be entitled at any time to alter or change the general specifications of its products as published in the Seller's product portfolio and product data sheets produced by any third party supplier subject to reasonable prior notice of any such alteration or change being given to the Buyer to the extent only that the Seller itself is given such notice by any third party supplier; and

(b) Should any materials or products required for the Goods be unavailable, the Seller reserves the right to supply substitutes materials or products reasonably deemed by the Seller to be similar to the required Specification and suitable for the general purpose of the Goods suitable for the intended purpose of the Goods as understood by the Seller and that any such change or alteration affecting the Goods and/or the use by the Seller of such substitutes shall be accepted by the Buyer and deemed to constitute proper performance by the Buyer of its obligations under the Contract.

10.2 Should the Seller be required by any regulatory authority to alter the specification of any Goods the Seller reserves the right to amend the Specification of the Goods without prior notice to the Buyer.

11. General

11.1 Any notice to be given under these conditions shall be in writing.

11.2 No failure or delay by the Seller in exercising any of its rights under the contract shall operate as a waiver of that or any other right under the contract.

11.3 The Buyer may not assign any of its rights or obligations under the contract.

11.4 The parties to the contract do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.



11.5 If any of these conditions shall become or shall be declared by any court of competent jurisdiction to be illegal, invalid or unenforceable in any way, such provision shall be ineffective without, as far as possible, modifying any other clause or part of this Agreement and this shall not affect any other provisions of this Agreement which shall remain in full force and effect.

11.6 The paragraph headings are for convenience only and shall not affect the interpretation or construction of the contract.

12. Confidential Information

The Buyer shall treat all drawings, procedures, instructions, documents and other information of any kind whatsoever (including without limitation any information relating to the price of Goods) supplied by the Seller to the Buyer as strictly confidential (except to the extent that any such information is available in the public domain) and shall not without the prior written consent of the Seller, disclose or part with possession of any such documents or information or extracts there from or copies thereof or use any such documents or information otherwise than in connection with the purchase and use (but not the re-sale of) Goods to which they relate.

13. Proper Law

The contract shall be deemed to have been made in England and shall be governed by and construed in accordance with English law and both parties shall submit to the non-exclusive jurisdiction of the English courts.