

METAPLAST

Terms & Conditions Page 1 of 4

1 a) In this Agreement (unless the context otherwise requires) “the Seller” or “The Company” shall mean Metaplast Ltd and “the Customer” means the person or organisation doing business with the company. The singular in all cases shall include the plural and vice versa.
b) The headings in this Agreement are inserted for clarification only and shall not affect the meaning or interpretation of this Agreement.

GENERAL

The Customer shall not imply any modification or have the effect of modifying these conditions. Acceptance of The Customer is deemed to have accepted these conditions by placing his order and this resulting Agreement embodies the entire understanding of the parties and all quotations given by the Company and all orders made by the intending purchaser are subject to these conditions. No modifications made by the Company its servants or agents or otherwise howsoever shall be effective unless confirmed in writing by the Company. Previous dealings between the Company and the intending purchaser shall not vary or replace these terms in any way whatsoever. The signing by the Company of any of the intending purchasers’ documentation goods from the Company shall be conclusive evidence before any Court or Arbitrator that these conditions apply.

No purported modification or variation of this Agreement shall be of any effect unless agreed in writing by a Partner of the Company and the Customer and signed on behalf of each of them.

The Company shall not be under any liability nor shall the Customer be entitled to any remedy, by reason of misrepresentation made to the customer or any agent of the Customer by or on behalf of the Company where the misrepresentation results from information derived from a third party which the Company has received and acted upon in good faith and without reason to disbelieve or doubt.

The Company and the Customer have freely and openly negotiated this Agreement in the knowledge that the liability of the Company is to be limited in accordance with these terms and conditions and the price has been calculated accordingly. If the Customer considers that any of the provisions contained in these terms and conditions are unreasonable, the Customer should notify the Company thereof before entering into this Agreement, giving reasons for such opinion with the view to a special condition being negotiated.

DESCRIPTION

If the Company modifies the designs and specification of any of the Products (which it shall be entitled to do at its discretion) the modified designs and specification shall be substituted for any designs and specification expressed or implied in this Agreement and the Customer shall accept the Products as manufactured in accordance with the modified design and specification in satisfaction of the Company’s obligations under the Agreement.

The Company reserves the right to withdraw any designs and specifications of its Products without prior notice and the Company shall be under no liability whatsoever for such modification or withdrawals referred to in (a) above.

The description of the Products in the acknowledgment of order form referred to in clause (a) above has been given by way of identification only and the use of such description shall not constitute a sale by description.

Any agreement between the Company and a Customer as regards exclusivity being of a design, supply or otherwise shall only be valid if agreed between the parties and confirmed in writing by the Company to the Customer.

INTELLECTUAL PROPERTY RIGHTS

Trade mark, trading names, copyright and all other intellectual property rights in all specifications, designs, manufacturing details and other information pertaining to the Products are and shall remain vested in the Company and the Company reserves all rights to deal therewith and the Customer shall not copy nor disclose them to any other person nor take any action whatsoever which might prejudice the same.

The Company specifically retains all copyright and other intellectual property rights in all designs, drawings and sketches submitted with or in connection with this Agreement and such information shall at all times be treated as confidential by the Customer who shall not without the consent of the Company use such information or communicate it to a third party.

SAMPLE

It is hereby expressly agreed that although the Products have been described the Products delivered by the Company hereunder shall be deemed to correspond with the description given ALWAYS PROVIDED that this Clause shall not affect the right of the Company to modify the design and specification pursuant to Clause 3(a) above. Although a sample of the Products can be produced and examined by the Customer it is hereby declared that such sample is so produced and examined solely to enable the Customer to judge for himself the quality of the products, and not so as to constitute a sale by sample under this Agreement and the Customer shall take the Products at its sole risk as to their corresponding with the said sample or as to their quality condition or sufficiency for any purpose.

PRICES

Unless otherwise specified all prices quoted are those applicable at the date of acceptance by the Company of the Customer’s order and any individual concession made by the Company to the Customer concerning special discounts or allowances must be contained in a separate confirmatory letter from the Company to the Customer accompanying the acknowledgment or order form to be of any effect. All prices quoted are inclusive of packaging but exclusive of delivery unless otherwise specified and the Company reserves the right to charge the Customer an additional amount for such costs.



Terms & Conditions Page 2 of 4

In no event will be Company be responsible for any costs in connection with changes made to packaging, labelling or marking of the packaging used in the normal course of business of the Company and the Customer will bear such additional charges unless instructions for the same are received by the Company and are agreed at the time that the order is placed.

Additional costs incurred by the Company on account of any alterations made at the Customer's request to quantities or delivery dates or agreed changes in specifications shall be borne by the Customer.

All prices are exclusive of VAT, which will be charged at the current rate at the time of delivery and if the Customer is an overseas client then the equivalent tax if applicable will likewise be charged at the current rate at the time of delivery.

PAYMENT

Payment shall be due thirty days EOM after the date of invoicing unless the Contract is one for cash on delivery or on other terms and the method of payment has been previously agreed in writing. The Company in writing must confirm any special arrangements making provision for delayed payments between the Customer and the Company.

The Customer shall not be entitled to withhold payment or make any deductions from the price in respect of any set off or counterclaim whether the Products are defective or otherwise.

If full payment is not made by the due date, the Customer shall additionally pay interest on the amount outstanding at the rate of 4% per annum above the base lending rate of Barclays Bank plc from the date of the invoice or such other date arranged for payment between the parties until the date of actual payment.

Payment by the Customer shall be paid by the due date notwithstanding the fact that delivery of the goods may not have been effected due to delays which may or may not be within the control of the Company.

DELIVERY

a) The method of delivery shall be as set out in the order PROVIDED ALWAYS that the Company shall have the right to vary such method of delivery should it be impractical or inconvenient and subject to the Company serving the Customer with written notice or the varied method of delivery then the Customer shall be obliged to accept delivery by such varied method.

b) Delivery shall be effected when the Products are handed over to the Customer, his authorized agent, or any person present at the place or places specified in the order or subsequently agreed upon to include the place of business of the Customer his transporters, forwarding agents, or such other agents involved in the dispatch of the Products to the Customer whom the person effecting the delivery reasonably assumes to be so authorized and the products will then be deemed to have been accepted by the customers. Delivery may at any time be withheld pending payment of any sum due from the Customer to the Company.

c) All delivery dates are estimates only and the time of delivery shall not be of the essence of the Contract. In no circumstances shall the Company be liable to compensate the intending purchaser in damages or otherwise for non-delivery or late delivery of the goods or any of them for whatever reason or any loss consequential or otherwise arising therefrom.

d) Should any delay in the delivery of the Products arise by virtue of the Customer's default in taking delivery, the Company will not be liable for any charges which may arise for storage, demurrage, or damages for detention, which sums shall be discharged by the Customer. In the event of the Company paying such sums (which shall be at its absolute discretion), then such sums shall be liquidated debt due from the Customer to the Company, bearing interest at the rate specified in Clause 7 (c) hereof.

e) The intending Customer or its duly authorized agent shall inspect the Products immediately on delivery thereof and shall within two days of such delivery give notice to the Company in writing of any matter or thing by reason whereof the intending Customer may allege that the Products are not in accordance with the Contract or are defective in material or workmanship. In the event that the intending Customer establishes to the Company's reasonable satisfaction that the Products are not in accordance with the Contract or are so defective, the intending Customer's sole remedy shall be limited as the Company may elect to the replacement of the Products or refund of the purchase price against return of the Products.

f) In no circumstances shall the Company be liable to the intending Customer for any loss of profits or damages claimed from a sub-purchaser which may arise by reason of the Company's failure to deliver Products within the time period requested by the Customer or by reason of failure to deliver Products of a specified quality or for any other reason whatsoever.

a) Notwithstanding any agreed terms of payment, the Products are not sold or delivered on credit but on the condition that the ownership of the Products shall remain with the Company and no property of the Products, whether legal or equitable, shall pass from the Company until payment of the full price has been received in respect of all the Products the subject of this Agreement and all other Products the subject of any other agreement between the Company and the Customer, and until such time, the Customer as holder of the Products shall store the Products in such a manner that they are distinct from other goods, equipment, and components and clearly designated as the property of the Company unless the prior written consent of the Company has been obtained authorizing resale by the purchaser, in which event the Company shall have a charge over such sums paid as are sufficient to discharge the outstanding liability of the Customer to the Company.



Terms & Conditions Page 3 of 4

b) The intending purchaser's right to possession of the goods shall cease at whichever is the earliest of the following dates:

i) On the expiration of an agreed period of credit, if any.

ii) If, not being a Company, he does anything, which would entitle a statutory demand to be served or entitle a petition for a Bankruptcy Order to be made or upon the commencement of any other act or proceeding in which his solvency is involved.

iii) If the intending purchaser, being a company, does anything or fails to do anything that would entitle a receiver to take possession of any of its assets or that would entitle any person to present a petition for winding up or apply for an administration order.

c) If the intending purchaser is a company, then neither the intending purchaser, any director, servant, or agent thereof shall apply to the Court for the appointment of an administrator without giving fourteen days' notice to the Company. From the date of the said notice, the intending purchaser shall not be entitled to remain in possession of any of the Company's goods. On the sale to a sub-purchaser of any of the goods, the proceeds thereof shall be held in trust for the Company, shall not be mingled with other monies, and shall not be paid into any overdrawn bank account but shall be paid into a fiduciary account for the company with the intending purchaser's bankers, who shall be advised that the intending purchaser holds the entire proceeds of sale to a sub-purchaser as trustee for the Company, and not until payment to the Company of the agreed price shall he be entitled to any interest earned on the fiduciary account. If a receiver is appointed to the intending purchaser and at the time thereof, the intending purchaser shall not have received the proceeds of sale, the intending purchaser or the receiver, as the agent for the intending purchaser, shall assign to the Company within seven days all rights against the person or persons to whom the goods have been sold. If a receiver or manager or any other person acting for the intending purchaser fails to return any goods that are the property of the Company, the return of which has been demanded in accordance with these conditions, he shall pay the Company as agreed and liquidated damages for detinue and/or conversion, the agreed price of the goods; and if such person shall fail to assign to the Company any rights against a third person as required by Clause 6 hereof, he shall be liable to payment to the Company plus interest thereon at the Barclays Bank PLC base rate plus 5 per centum until the Company shall receive the whole of the monies due.

If a receiver or manager or any other person acting on behalf of the intending purchaser shall in any way seek to impugn the Company's title to the said goods or shall seek to claim that this conditional sale amounts to a charge on the intending purchaser's assets, he shall pay to the Company as agreed and liquidated damages for slander of title, the agreed price of the said goods.

d) Until payment as aforesaid has been made in full, neither the Customer nor any other person shall acquire a lien or any other right over the Products.

e) The Customer shall upon delivery of the Products and until payment of the full price as aforesaid, insure the Products in the joint names of the Company and the Customer.

f) The risk of loss or damage to the Products shall pass to the Customer on delivery.

WARRANTY

a) The Company warrants that save as otherwise herein specifically provided, the Products will accord with the Contract specifications and will be of sound materials and workmanship and that the Products will be reasonably fit for the purpose of which the Customer has given appropriate written details to the Company. Save where the Customer deals as a consumer, this warranty is in substitution for all conditions and warranties (other than those implied under Section 12 of the Sale of Goods Act 1979 as amended) relating to the Products whether express or implied by statute or custom of the trade of otherwise and whether as to quality, condition, performance, merchantability, or fitness for any purpose. The Company's sole responsibility under this warranty shall be, at its option, to replace or give credit in exchange for any goods that are defective, provided that the Customer has reported the same to the Company in writing or by fax within 2 days of discovering on inspection such goods to be defective, provided that the Company shall not accept any claims as valid relating to failure in wear unless the Company or its duly authorized agents have been given the opportunity to see those Products and have given authorization in writing.

b) The warranty given by the Company in paragraph 10(a) above shall not be enforceable by the Customer unless defects are shown to exist in such number of goods representing no less than 5% of the Products stated on the relevant acknowledgment of order form.

c) Any goods forming part of the Products may be returned to the Company only if agreed by the Company, and the Company's certificate as to the quantity of returned goods received by it shall be final and binding.

d) Any Products returned to the Company shall be dispatched only in accordance with the Company's shipping instructions, and the customer shall provide adequate in-transit insurance. Compliance with such instructions by the Customer will be a condition of this warranty. Goods returned by the Customer uninsured shall result in an automatic cancellation of any obligation of the Company to repay the purchase price in whole or in part.

METAPLAST

Account Terms & Conditions Page 4 of 4

CANCELLATION

- a) If events beyond the Company's reasonable control prevent the Company from delivering all or part of the Products for longer than 3 months from the due date of delivery, either party may at any time after the expiry of such a period of three months by notice in writing and without liability (save for refunding any payments made by the Customer by way of deposit or otherwise on account in respect thereof and subject to the Company's rights under (b) below) cancel this Agreement as regards such undelivered products.
- b) Where the Customer cancels the Contract in accordance with paragraph (a) above, the Company may, by counter-notice in writing given within 28 days of such cancellation, require the Customer to take and pay for at the proper proportion of the Contract price any Products manufactured or adapted to the Customer's design or specification under this Agreement or purchased for the purposes of this Agreement and for which there is no other market readily available to the Company.
- c) Except as provided for in ii (a), the intending customer may not cancel the Contract without the prior written consent of the Company, which if given shall be deemed to be on the express condition that the intending purchaser shall indemnify the Company against all loss, damage, claims, or actions arising out of such cancellation unless otherwise agreed in writing by the Company, and in any event, notification of the requested cancellation must be received in writing either by telex or fax by the Company within three weeks of the date specified for delivery of the Products (as extended pursuant to Clause II(a)), provided that should be Products be in transit to the Customer, then no cancellation shall be accepted.

LIABILITY

- a) The Company will accept liability for personal injury (including death) or for other direct physical damage to the Customer's property to the extent that such injury or damage is caused by the negligence of the Company, its servants, or agents, provided that the maximum liability of the Company in relation to damage to the Customer's property shall in no case exceed the Company's charges in respect of the Products responsible for such damage.
- b) The Company shall not be liable for any indirect or consequential losses of any kind whatsoever, including loss of production, loss of profits, or loss of contract or business, arising out of or in connection with the use or performance of the Products, whether due to faulty design, workmanship, or materials or for any other cause whatsoever.
- c) The Customer will indemnify the Company in respect of any claims for loss, damage, or injury to any person or property occasioned or arising directly or indirectly from the Customer's possession, operation, modification, or supply to a third party of the Products, except to the extent admitted expressly in this Agreement.

FORCE MAJEURE

The Company will make every effort to carry out the terms of the Agreement, but if such performance is not reasonably possible by reason of any cause whatsoever beyond the reasonable control of the Company, and in particular, but without prejudice to the generality of the foregoing, by Act of God, war (whether declared or not), sabotage, riot, explosion, Government control, restrictions, or prohibitions or any other Government act of omission, whether local or natural, fire, accident, earthquake, storm, flood, epidemic, drought, or other natural catastrophes, inability to obtain equipment, suitable raw materials, components, fuel, power, or transportation, disputes with workmen, strikes, or lockouts or shortage of labor, the Company reserves the right to modify the terms of or cancel this Agreement without subsequent liability for loss or damage as caused.

The Customer shall not assign this Agreement or any of its rights or duties hereunder without the prior written consent of the Company.

GOVERNING LAW

This Agreement shall be governed by and construed and shall take effect in accordance with the laws of England, and the parties hereby agree to submit to the non-exclusive jurisdiction of the English Courts.

ADDITIONAL CONDITION

All invoices are due for payment (on the 30th day of the month following the invoice date or as agreed in writing with the Company). Any invoice outstanding beyond this period could be referred to our appointed collection agency Daniel Silverman Ltd and could be subject to a surcharge of 15% plus VAT to cover the collection costs incurred. This surcharge, together with all the other charges and legal fees incurred, will be the responsibility of the customer and will be legally enforceable.