

CONDITIONS OF SALE

1. Definitions and Interpretation

1.1 In these Conditions:

“**Acknowledgement**” means the Company’s acknowledgement of the Customer’s Order.

“**Company**” means Global Engineering Plastic Products (Global EPP) Limited (registered in England and Wales with company number 06636136).

“**Contract**” means any contract for the purchase of any Goods by the Customer which incorporates these Conditions.

“**Contract Documentation**” means all documents which form part of, constitute or evidence the Contract, including these Conditions and any quotations, offers, Orders, Acknowledgments, acceptances and specifications of the Company and the Customer and any documents referred to in any of them.

“**Customer**” means any person, firm or company who submits an Order to the Company.

“**Delivery Address**” means the address where the Goods are to be delivered or made available to the Customer, as notified to the Customer by the Company.

“**Delivery Date**” means the date on which it is intended that the Company shall deliver the Goods (the expression “deliver” being interpreted in accordance with Condition 5.1), as notified to the Customer by the Company subject to Condition 5.4.

“**Goods**” means all goods, works, labour, materials, services and all other things to be sold, supplied or performed in accordance with the Contract and as identified in the Contract Documentation.

“**Order**” means the order placed with the Company by the Customer for Goods.

“**Price**” means the purchase price of the Goods notified or quoted to the Customer or, if no price has been notified to the Customer, the price of the Goods as specified in the Company’s price list current at the date the Order is accepted by the Company which complies with the requirements of Condition 2.4 is placed by the Customer.

1.2 In these Conditions, unless otherwise stated, references to:

(a) the “**parties**” are references to the Company and the Customer;

(b) a third party are references to a person who is not a party to the Contract;

(c) “**persons**” and “**parties**” shall include references to individuals, companies, corporations, partnerships and unincorporated associations;

(d) the singular shall include the plural and vice versa;

(e) a “**Condition**” are references to a condition of these Conditions; and

(f) a statute, statutory instrument, regulation, order or licence are references to that statute, statutory instrument, regulation, order or licence as substituted, varied or re-enacted from time to time.

1.3 The headings in these Conditions are for convenience only and shall not affect the construction of these Conditions.

1.4 The words “**include**” and “**including**” shall be construed without limitation.

2. Construction of Contract.

2.1 These Conditions shall apply to all Contracts between the Company and any the Customer for the supply of goods by the Company.

2.2 The Company contracts upon the terms of these Conditions only and any printed or other standard terms emanating from the Customer shall not apply and are hereby excluded from the Contract.

2.3 Each Order shall be deemed to be an offer by the Customer to buy Goods subject to these Conditions and no Order shall be deemed to be accepted until the Company, by giving notice of acceptance in writing, in whole or in part accepts the Order by issuing an Acknowledgement. The Customer shall not be entitled to withdraw an Order once submitted. Each Order shall represent a separate Contract.

2.4 The Customer shall ensure that each Order:

(a) specifies the exact Goods being ordered;

(b) specifies the respective quantities of each of the Goods being ordered;

(c) specifies the requested Delivery Date and Delivery Address (and requested method of delivery) and the address to which the Company’s invoice should be submitted.

2.5 The Company is under no obligation to accept any Order. If the Company changes any of the items listed in Condition 2.4 in its Acknowledgement, the Customer shall have 3 days from the date of the Acknowledgement to cancel the Order. If it does not do so a Contract shall be formed on the basis of the Acknowledgement.

3. Price Variation

Any quotations or estimates issued by the Company remain open for acceptance by the Customer for a period of thirty days, unless otherwise stated in the quotation or estimate. Both quotations and estimates are based on the Company’s current costs of production and unless otherwise agreed by the Company are subject to amendment by the Company on or at any time before acceptance by the Company of an Order to meet any rise or fall in such costs. The Company’s statement that its costs have risen or fallen in such circumstances shall be conclusive as to the existence of such rise or fall.

4. Supply of Goods

4.1 The Company agrees to sell, deliver and provide to the Customer and the Customer agrees to purchase and accept delivery of and pay for the Goods on and subject to the terms of the Contract.

4.2 The Customer shall not be entitled, following the acceptance by the Company of any Order, to change the quantity or the specification of the Goods or the Delivery Date without the prior written consent of the Company. If any such change would result in additional cost or expense to the Company in providing the Goods or would delay delivery of the Goods, the Company shall be entitled, as a condition of giving its consent, to make an equitable adjustment to either or both of the Price and the Delivery Date, to the extent necessary to reflect the additional costs or delay (as the case may be).

4.3 The Company shall be entitled to deliver a quantity of Goods of up to 5% more or less than the quantity specified in the Contract Documentation, and the Price shall be adjusted on a pro-rata basis to take account of the variation. Unless otherwise stated, all weights specified in the Company’s price list or on the packaging of the Goods indicate net weight when packed. Where appropriate, the Company’s weights, samples and analyses shall be deemed to have been accepted by the Purchaser.

5. Delivery

5.1 Delivery of the Goods shall be effected by either:

(a) the Company delivering the Goods or having them delivered to the Customer at the Delivery Address; or

(b) the Customer collecting the Goods from the Delivery Address after the Company has notified it that the Goods are available for collection, and the expression “delivery” where used in these Conditions refers to delivery made pursuant to either of those methods. The actual method of delivery shall be specified in the Order.

5.2 Where the method set out in Condition 5.1(a) above is specified:

(a) the Company shall use its reasonable endeavours to deliver the Goods on the Delivery Date; and

(b) the Customer shall be responsible for unloading the Goods from the appropriate vehicle at the Delivery Address.

5.3 Where the method set out in Condition 5.1(b) above is specified, the Company shall:

(a) give notification to the Customer that the Goods are available for collection

- (b) be responsible for loading the Goods onto the appropriate vehicle at the Delivery Address; and
 - (c) have no liability for any loss of or damage to the Goods following loading if the Customer, its representative or any third part not under the direction or control of the Company makes any change to the manner in which the Goods are loaded, stacked or distributed by the Customer within the relevant vehicle.
- 5.4 The Company shall use its reasonable endeavours to deliver the Goods on the Delivery Date, but any Delivery Date shall be treated as an estimate only, given in good faith, and such Delivery Date is not a term of the Contract. It is specifically agreed that time for delivery is not of the essence of the Contract and the Customer acknowledges that the Company shall not be liable to it for any losses, costs, damages, expenses or charges directly or indirectly suffered or incurred by the Customer as a result of any delay in the delivery of the Goods.
- 5.5 If at any time the Company has reason to believe that delivery of the Goods may not be made on the Delivery Date, the Company shall notify the Customer accordingly and, to the extent reasonably practicable, shall provide an estimate of when the Goods will be delivered, without prejudice to Condition 5.4.
- 5.6 Any Delivery Date shall be extended by any period or periods during which the manufacture or delivery of the Goods by the Company in connection with the Contract is delayed due to any event or circumstance beyond the control of the Company. Notwithstanding such delays the Customer shall take and pay for (pro rata to the Price for Goods delivered) such of the Goods as shall be tendered by the Company and be ready for delivery.
- 5.7 Goods shall be deemed to have been dispatched in full quantity and in good condition unless particulars of the shortage or defect alleged are notified in writing by the Customer to the Company within 7 days of the date of delivery as shown on the Company's delivery note.

6. Risk and Title

- 6.1 No property in the Goods supplied by the Company to the Customer shall pass from the Company to the Customer unless and until the Company has received payment in full for such Goods.
- 6.2 Until payment for any Goods supplied and for any work done has been made in full, including payment of any interest due, the Customer shall store all Goods supplied by the Company in such a way as to enable them to be identified as the property of the Company and shall hold such goods as bailee for the Company. The Customer shall not dispose or part with the possession of such Goods until title has passed, save that the Customer may sell the goods in the normal course of business.
- 6.3 The risk in any Goods supplied by the Company shall pass to the Customer when they are dispatched from the Company's premises either for delivery to the Customer or as a result of collection by the Customer. The Customer shall keep such Goods fully insured until title has passed to the Customer in accordance with Condition 6.1.
- 6.4 The Company reserves the right to repossess and recover any Goods supplied to the Customer and thereafter to resell the same and for this purpose the Customer hereby grants an irrevocable right and licence to the Company's employees and agents to enter upon all or any of its vehicles or premises in which such Goods are stored with or without vehicles. This right shall continue to subsist notwithstanding the termination of the Contract for any reason and is without prejudice to any accrued rights of the Company thereunder or otherwise.

7. Price and Payment

- 7.1 The Price, unless otherwise stated in an Acknowledgement, is ex works and includes the Company's standard packaging, but excludes all other costs of delivery, carriage, insurance, Value Added Tax and any other statutory charge, tax or customs duty.
- 7.2 The Company shall be entitled to submit its invoice for the Goods to the address specified in the Order on or at any time after delivery.
- 7.3 The Price is to be paid by the Customer, unless otherwise stated in an Acknowledgement, within 30 days of the date of the invoice and time is of the essence in relation to payment. If the Customer delays taking delivery of the Goods beyond the agreed Delivery Date, the Goods may be invoiced at any time on or after the Delivery Date notwithstanding that they have not actually been delivered and payment shall be due within 30 days of the date of the invoice. Payment shall be made to the Company and the Company's official receipt shall be the only acknowledged discharge of the debt.
- 7.4 The Customer shall not be entitled to withhold payment of any amount due to the Company by reason of any payment, credit, set off, counterclaim, allegation of incorrect or defective Goods or work or for any reason whatever which the Customer may allege excuses it from performing its obligation under the Contract.
- 7.5 Interest and compensation shall be payable on any amount due from the Customer to the Company under the Contract and remaining unpaid after the due date at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998, from the day after the due date until the date of actual payment, whether before or after any judgment.
- 7.6 If the Customer fails to pay the Price in full (or any part thereof) by the due date (save in the case of a genuine bona fide dispute as to the amount due, and subject to payment by the Customer of any part of the Price not in dispute) then without limiting any other remedy of the Company under the Contract:
- (a) the Company shall be at liberty to suspend all further deliveries of the Goods or other goods or products of any kind, whether pursuant to the Contract or otherwise, unless and until payment is made; and
 - (b) the Customer's right to possession of the Products which are the subject of the invoice in question shall terminate with immediate effect.
- Without limiting any other right or remedy of the Company in respect of unpaid monies the time for payment shall be of the essence of the Contract.

8. Warranty

- 8.1 The Company warrants that any Goods which it has manufactured shall for a period of 6 months from the Delivery Date:
- (a) comply with all relevant statutes, regulations and other matters having the force of law;
 - (b) comply in all material respects with any description previously supplied by the Company; and
 - (c) be free from defects caused by faulty material or poor workmanship.
- However, the Company gives no warranty and makes no representation (whether express or implied) as to any other matters whatsoever including as to satisfactory quality or fitness for purpose or performance of the Goods and the warranty given is expressly conditional upon the Company being promptly notified in writing upon discovery of any such defects, the Customer immediately ceasing to use the defective Goods (unless otherwise authorised to do so by the Company) and the defective Goods being immediately returned to the Company.
- 8.2 The Company's liability in respect of the Goods shall be limited at its option to replacing, repairing or issuing a refund in relation to any Goods returned in accordance with Condition 8.1 within 6 months from the Delivery Date.
- 8.3 The Company shall be under no liability to the Customer under Conditions 8.1 and 8.2:
- (a) unless the Customer complies with the obligations in Condition 8.1;
 - (b) to the extent that the defect in question was caused by any repair, maintenance, alteration or addition to the Goods by any person other than the Company, unless the Company have provided its prior consent to that repair, maintenance, alteration or addition to the Goods being carried out by a third party;
 - (c) to the extent that the defect in question was caused or aggravated by any act or omission on the part of any person other than the Company, including use or storage of the Goods in a manner contrary to any written instructions of the Company or good trade practice, faulty or improper handling or use;
 - (d) to the extent that the defect in question arises from fair wear and tear, accident or negligence or any other failure to follow the Company's instructions;
 - (e) to the extent that the defect in question was caused as a result of any reliance by the Company of any information supplied by the Customer; and/or

(f) to the extent that the Customer makes any further use of the defective Goods after giving the Company notice of the defect.

9. Cancellation

If any of the following apply:

- 9.1 the Customer is in breach of any of these Conditions which is not remediable or, if the breach is remediable, fails to remedy it within 14 days of being requested to do so;
- 9.2 the Customer being a company makes or attempts to make a voluntary arrangement under the Insolvency Act 1986 (the "Act"), enters into any composition or arrangement for the benefit of its creditors or is likely or becomes unable to pay any of its debts or is or becomes the subject of an application to the Court for an Administration Order under the Act or has an administrative receiver or administrator appointed over all or any part of its assets.
- 9.3 the Customer being an individual appears to be unable to pay or to have any reasonable prospect of being able to pay any one of his/her debts or is or becomes the subject of a bankruptcy petition under the Act or is the subject of a statutory demand for any of his/her debts under the Act or if execution or other process is issued in respect of any of his/her debts on a judgment or Order of any Court, then:
- (a) the Company shall be entitled immediately to determine the Contract in whole or in part;
 - (b) all costs, expenses, overheads and loss of profits incurred by the Company in connection with the Contract shall immediately become payable as a debt due from the Customer to the Company;
 - (c) any Goods of the Company kept by the Customer shall immediately be delivered up to the Company or to its nominee who shall be given access to the Goods in order to remove the same; and
 - (d) the Price of any Goods delivered by the Company to and used by the Customer shall become due and payable forthwith.

10. Limitation of Liability

10.1 Subject to Condition 10.2:

- (a) the Company's total liability to the Customer in connection with any and all claims arising in relation to any Goods shall not exceed the Price of those Goods; and
 - (b) under no circumstances shall the Company be liable to the Customer for loss of profit, loss of revenue, loss of bargain, loss of business or contract, diminution of goodwill or for any economic loss (whether direct, indirect or consequential) or for any indirect or consequential loss or damage of any kind.
- 10.2 Nothing in this Contract shall limit or exclude the liability of the Company for:
- (a) death or personal injury resulting from the negligence (as defined in Section 1 of the Unfair Contract Terms Act 1977) of the Company;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) any matters in respect of which it would be unlawful or illegal to exclude its liability.

11. Force Majeure

The Company shall not be liable for failure to perform in whole or in part any of its obligations hereunder as a result of any cause beyond the control of the Company.

12. Entire Agreement

The Contract (together with the Contract Documentation) constitutes the entire agreement between the parties and cancels and supersedes any and all previous agreements (whether written or oral, express or implied) between the parties relating to the subject matter of the Contract. Except for the express written terms of the Contract, the parties agree and acknowledge that in entering into the Contract they have not relied on or been induced by any warranty, statement or representation of the other or any other person relating to the Contract. Nothing in the Contract shall affect any liability of a party for fraudulent misrepresentation.

13. Variation

These Conditions shall not be modified without the written agreement of the Company.

14. Rights of Third Parties

No term of the Contract is intended for the benefit of any third party and none of these Conditions shall be enforceable by a third party under the Contract (Rights of Third Parties) Act 1999 or otherwise.

15. Severability

Each of these Conditions is to be construed as independent of every other Condition so that the invalidity, illegality or unenforceability of any Condition shall not affect the other Conditions, all of which will remain in full force and effect.

16. Waiver

No omission or delay on the part of the Customer or the Company in exercising any right, power or privilege under the Contract shall operate as a waiver by it or of any right of exercise it in future or of any other of its rights under the Contract.

17. Rights Cumulative

Except as expressly provided in the Contract the rights and remedies contained in the Contract are cumulative and shall be in addition to every other right or remedy provided by law or otherwise.

18. Assignment / Sub-Contracting

- 18.1 The Company shall be entitled to assign or sub-contract the whole or any part of its rights or obligations under the Contract without the prior written consent of the Customer.
- 18.2 The Customer shall not be entitled to assign the whole or any part of its rights or obligations under the Contract without obtaining the prior written consent of the Company.

19. Notice

Any notice required to be sent under the Contract will be properly served if sent in writing:

- 19.1 by hand, in which case such notice shall be deemed to have been served at the time of delivery where it is delivered on a working day and at 9am on the next working day if it was not delivered on a working day;
- 19.2 by first class or recorded delivery post to the address of the party in question given on the Order (or such other address as the parties may notify to each other from time to time), in which case such notice shall be deemed to have been served two working days after the date of posting; or
- 19.3 by fax to the party in question, in which case such notice shall be deemed to have been served on the next working day after receipt of an uninterrupted transmission confirmation.

20. Law

English Law shall govern the construction and operation of the Contract and any disputes arising thereunder shall be dealt with exclusively by the Courts of England save that the Company shall be entitled to bring proceedings against the Customer in the Courts of or any other Jurisdiction where the Customer resides or carries on business