

CONDITIONS OF SALE

"The Company" means COX WOKINGHAM PLASTICS LIMITED (company number 02959737)

"Customer" means the person, firm or company who purchases the Goods from the Company

"Delivery Point" means the place where delivery of the Goods is to take place under condition 5 (iv).

"Free Issue Items" means items provided by the Customer to the Company in order for the Company to complete the manufacture of the Goods

"Goods" means the articles manufactured by the Company which the Customer agrees to purchase from the Company (including those made from material provided to the Company by the Customer to manufacture the Goods)

The following provisions shall apply to all contracts relating to goods under which the Company agrees to supply to the Customer ("Contracts", or individually, a "Contract"). No failure by the Company to enforce strict compliance by the Customer with such provision shall constitute a waiver thereof and no termination of the Contract shall prejudice limit or extinguish the Company's rights under this paragraph. Payment shall mean payment in cash such that the Company's acceptance of a cheque shall constitute conditional payment only until such cheque has been cleared and cash received.

1. APPLICATION
(i) These conditions alone shall govern and be incorporated in every contract for the sale of goods by the Company to any Customer.
(ii) No addition to nor any cancellation, variation, qualification or waiver of any or all of these conditions shall have any legal effect whatsoever (whether acted on by the Customer in any way or not) unless it is so agreed in writing and signed by a Director of the Company.
(iii) Prior to the Company's formal acceptance of any order or to written notification being given to the Company that its tender has been accepted, no written or oral information about the price, availability, delivery, design, specification, importation or description of the goods previously given shall have any contractual effect or be incorporated in any contract for the sale of goods except insofar and to the extent that these conditions expressly allow.
(iv) No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
(v) Each order or acceptance of a quotation for Goods by the Customer from the Company shall be deemed to be an offer by the Customer to buy Goods subject to these conditions.
(vi) No order placed by the Customer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Customer.
(vii) The Customer shall ensure that the terms of its order and any applicable specification are complete and accurate.
(viii) Any quotation is given on the basis that no Contract shall come into existence until the Company dispatches an acknowledgement of order to the Customer. Any quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.
2. PRICE AND PAYMENT
(i) At any time before the delivery of the Goods by the Company has been completed the Company shall be entitled to vary the price of any Goods previously ordered by the Customer in order to take all or any of the following factors into account:
(a) any change in the exchange rates for the pound (sterling)
(b) any increase due to any reason in the cost of production and/or delivery
(c) any increase in the cost of material, components, and/or goods to be supplied to the Company before onward transmission of the goods to the Customer.
(d) Any increase of any nature in the cost to the Company as a result of its importing the goods or any part of them or any component part or parts in the UK
(e) Any change in the rate of Value Added Tax or other similar tax or levy chargeable
(ii) The price for the Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Customer shall pay in addition when it is due to pay for the Goods.
(iii) Time for payment shall be of the essence.
(iv) No payment shall be deemed to have been received until the Company has received cleared funds.
(v) All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.
(vi) The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Customer.
3. QUANTITY
(i) The Company reserves the right to supply a quantity of goods which may vary from the quantity ordered by the Customer by up to 10% and the Customer shall not be entitled to object to or reject the Goods by reason of the surplus or shortfall. The quantity supplied will be invoiced at the price agreed for the ordered quantity.
4. OVERDUE ACCOUNTS
(i) The Company may at its own discretion choose to levy an interest charge on a day to day basis on unauthorised overdue accounts from the due date to the date of payment (both dates inclusive) at a rate in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 and suspend deliveries of any further Goods.
(ii) The Company shall at its own discretion levy any reasonable expenses incurred in the collection of its debts.
5. DELIVERY
(i) The time for delivery shall not commence until the later of either the date of the confirmation by the Company of a written order or of receipt by the Company of all necessary information to enable it to proceed with the order. Any delivery dates stated in quotations or confirmations of orders are reasonable estimates only which the Company will use its reasonable endeavours to meet and for all deliveries time shall not be of the essence. In the event of the Company's failure to do so it shall be under no liability unless it has specifically guaranteed due delivery by a given date in which event the liability of the Company shall not exceed the contract price of the Goods to which the failure relates.
(ii) The Customer shall despite any delay in delivery or manufacture accept the goods from the Company. If however production and/or delivery is delayed or prevented for any reason beyond the Company's control for a period exceeding four months the Company shall have the option of cancelling the contract and refunding any payments made by the Customer.
(iii) Unless otherwise specified, all prices quoted are ex-works and Purchaser shall assume all risk of loss or damage upon delivery of the Equipment to carrier. All claims for damage or delay in respect of any shipment shall be made direct against the carrier by purchaser.
(iv) The Company shall not be liable for any damages or fines in the event of any delay or of any failure to deliver through or arising out of stoppage of work strikes lock-outs accidents or cause or causes beyond its control including (without limitation) failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors. Any contract affected shall not be subject to cancellation but shall be suspended and the time of delivery shall be extended for a period corresponding with that during which the cause of delay existed.
(v) Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place at the Customer's premises. The Customer shall provide at the Delivery Point and at its expense adequate and appropriate equipment and manual labour for unloading the Goods.
(vi) Where Free Issue Items are to be supplied by the Customer and fail to be provided when required by the Company, the Company may at its discretion:
(a) deliver the Goods less the Free Issue Items and invoice accordingly
(b) hold the Goods until such time as the Free Issue Items are delivered at an additional storage charge.
(vii) We may deliver Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the applicable contract. Each instalment delivery will be a separate contract and no cancellation or termination by either party of any one contract relating to an instalment will entitle you to repudiate or cancel any other contract or instalment.
Each invoice raised by us to you will be payable in full, without deduction or set off, in accordance with our standard payment terms. You agree that you will not be entitled to set off any claim against an invoice:-
(a) Unless you have notified us in writing within 14 days of delivery of any defect or shortage in the goods delivered;
(b) Any claim arising out of the supply of goods under a contract other than that which gave rise to the debt forming the subject matter of the invoice.
6. ACCEPTANCE
(i) Any complaint as to the non-compliance with specifications must be notified by the Customer to the Company within 30 days from the date of delivery and if the Customer shall fail to do so the Company shall be entitled to receive the full amount of the price for the Goods and any claim of any nature against the Company in respect of such alleged non-compliance shall be null and void.
7. LOSS OR DAMAGE IN TRANSIT: RISK
(i) The Company must be notified of the non-receipt of Goods within 10 days from the date of its despatch note, and failure to do so by the Customer or by the Customer's nominated consignee will render void any possible claim of any nature against the Company. Any Goods lost or damaged in transit will be replaced or repaired free of charge if delivery was to be effected throughout by a vehicle driven by an employee of the Company provided always that in the case of damage only to the Goods the Customer's nominated consignee must report the damage to the Company within 7 days of delivery, and any failure to do so will render void any claim against the Company.
(ii) The Goods are at the risk of the Customer from the time of delivery.
(iii) Ownership of the Goods shall not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
(a) the Goods; and
(b) all other sums which are or which become due to the Company from the Customer on any account
8. GUARANTEE
(i) If the Customer shall within 30 days from the date of delivery give written notice of any defect in the quality or manufacture of the Goods or any part of them to the Company and shall return the Goods to the Company carriage paid without delay the Company shall subject to sub-clause (ii) below make good or replace free of charge any part returned, provided always that this guarantee shall not apply if the goods have in the hands of the Customer been misused, involved in any accident, subject to abnormal conditions or dealt with in any way contrary to any instructions issued, or contrary to the normal way which such goods would otherwise be dealt with or handled.
- (ii) If any defect shall appear in any part of any Goods supplied by the Company and which shall not have been manufactured by the Company, the Company shall endeavour to transfer to the Customer the benefit of any warranty or guarantee given to the Company. The Company's obligation shall accordingly be strictly limited in his respect. The guarantee given under clause 8 (i) and (ii) shall be the limit of the Company's liability and the Company shall not be responsible for any direct or indirect loss or damage caused by or arising out of the use of any goods supplied by the Company or caused by or arising out of any failure or any defect in such goods and furthermore the Company shall not be liable or responsible for any consequential losses howsoever caused.
9. The Company reserves the right to alter materials or methods of manufacture with appropriate price variation subject to prior agreement with the Customer.
10. CANCELLATION
(i) Subject to the provisions of clause 4 the Company will agree to cancellation of a Contract only upon receiving a full indemnity for any loss arising in respect of such Contract and the cancellation thereof.
11. RETURNS
(i) Unless notice is given pursuant to the terms of clause 8(i) herein the Company shall be entitled to refuse to take back any Goods returned to it any time unless the Company's written consent shall previously have been received by the Customer.
12. TERMINATION
(i) Without prejudice to its rights to recover any amount due or to recover damages or to any other right the Company shall be entitled to treat the contract as repudiated:
(ii) If the Customer defaults in payment of any sum due thereunder.
(iii) If any distress is executed upon the Customer his property or assets if the Customer makes or offers to make any composition with creditors or if a receiver is appointed of the undertaking and assets of the Customer or a petition is filed or made or effective resolution passed for winding up (except for the purposes of reconstruction or amalgamation) or if the Customer, being an individual, commits any act which would be an act of bankruptcy or if any petition for a receiving order is presented against him.
Provided always that in the case of the circumstances arising above the Company shall be entitled to a lien on all goods of the Customer in its possession (although the same may have been paid for wholly or in part) in satisfaction of the whole or part as the case may be or the unpaid price of any Goods sold and delivered to the Customer under the same or any other contract.
13. COPYRIGHT AND DESIGN
(i) All orders are accepted on the understanding that the Customer fully indemnifies the Company in respect of the breach of any third party copyright, registered or unregistered design right, trade mark, trade secret, patent right or other intellectual property right. Items shall be manufactured only to drawings and specification supplied by the Customer and no responsibility relating to suitability for use can be accepted by the Company.
14. RETENTION OF TITLE
(i) Upon delivery of the Goods the Customer shall hold the Goods in a fiduciary capacity for the Company until such time as the Customer shall have paid to the Company the full purchase price of all Goods supplied under the Contract or any goods supplied under any other Contract. Until such time the Company shall be entitled to recover the Goods or any part thereof and for the purpose of exercising such rights the Company, its employees and agents with appropriate transport are hereby granted an irrevocable licence to enter upon the Customers premises and any other location or vehicle where the Goods are or may be situated or stored.
(ii) Before payment in full is made the Customer is hereby licensed to use the Goods in the normal course of its business but on the condition that the property in the Goods shall remain in the Company and that the property in any articles manufactured from or incorporating the Goods shall vest in the Company and the Customer shall notify any sub-customer of the fact that the Customer is not in a position to pass title to the Goods until such time as the conditions herein contained may have been satisfied by payment.
(iii) Before payment in full is made the Customer is hereby licensed to resell the Goods or any articles manufactured from or incorporating the Goods as provided in sub-clause Hereof as the agent of the Company, and the Customer further acknowledges that the proceeds of sales thereby arising belong accordingly to the Company. Such proceeds of sub-sale shall be credited to and held in a separate designated account in trust for the Company. In the event of the Customer not receiving the proceeds of sale within a period of 14 days from sale, the Customer undertakes to put into such bank account a sum equivalent to the amount of proceeds that would have gone into the bank account if the proceeds had been received.
(iv) The Customer shall maintain all appropriate insurance in respect of the Goods from the date or dates on which the risk therein passes to it. In the event of any loss or damage occurring while the Goods remain the property of the Company, the Customer shall immediately on receipt of the insurance monies remit to the Company the full purchase price of the Goods lost or damaged less any part thereof which has already been paid and until such amount has been so remitted shall hold such amount as a trustee and agent for the Company in the separate designated account referred to in sub-paragraph (iii) hereof.
(v) The licences granted under sub-paragraphs (ii) and (iii) above shall be terminable forthwith at any time upon notice by the Company to the Customer.
(vi) Notwithstanding that title remains with the Company, risk shall pass to the Customer on delivery.
(vii) If any sub-clause of this clause, or any part of it, shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such clause or part shall not affect the other clauses (and the remaining part of the affected clause) and all clauses not affected by such invalidity and unenforceability (and the remaining part of the affected clause) shall remain in full force and effect.
(viii) Notwithstanding that the Goods have been manufactured from material provided by the Customer, the Customer acknowledges that the Goods shall remain the property of the Company until property in Goods passes to the Customer in accordance with the provisions of this clause 14.
15. All contracts for sale of goods by the company shall be construed and governed according to English Law and the parties submit to the exclusive jurisdiction of the English courts. The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.
16. LIMITATION OF LIABILITY
(i) Subject to the above conditions, 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 Customer in respect of:
(a) any breach of these conditions;
(b) any use made or resale by the Customer of any of the Goods, or of any product incorporating any of the Goods; and
(c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
(ii) All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
(iii) Nothing in these conditions excludes or limits the liability of the Company:
(a) for death or personal injury caused by the Company's negligence; or
(b) under section 2(3), Consumer Protection Act 1987; or
(c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
(d) for fraud or fraudulent misrepresentation.
(iv) Subject to condition 16 (ii) and (iii) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price;
17. ASSIGNMENT
(i) The Company may assign the Contract or any part of it to any person, firm or company.
(ii) The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.
18. STORAGE OF CUSTOMER'S TOOLS
(i) The Company Reserves the right to dispose of tools that have not been used for a period of two years without reference to the customer. The company reserves the right to charge for storage at £120 per annum if the tool hasn't been used for one year.
19. DATA PROTECTION ACT 1998
(i) The Company has certain terms and conditions of sale in respect of the Data Protection Act 1998 which apply to Customers who are sole traders or partnerships. These are available on request.
20. VAT ON EXPORT
(i) Export vat and non-EU countries
All sales to customers outside the EU are zero-rated, providing that records of the export is returned to the company within 3 months of receiving the goods or the company receiving full payment, whichever date is sooner. If evidence is not provided within the 3 months, the company reserve the right to charge VAT to customer retrospectively.